

**Discrimination Against Blacks in Nova Scotia:
The Criminal Justice System**
A Research Study 1989



Discrimination Against Blacks in Nova Scotia

The Criminal Justice System

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Executive Summary

This study of Blacks and the Criminal Justice System in Nova Scotia had as its chief objective a systematic description and analysis of the attitudes, experiences and suggestions of Blacks, especially with respect to the police, courts and the correctional system. It has been guided by several general hypotheses and employed a variety of research methodologies. Attention has been given also to historical and contextual considerations including the history of the Black experience in Nova Scotia, current demographic and socio-economic patterns and the comparative views and experiences of the majority White population.

The three major research strategies employed were in-depth interviews with especially informed individuals and focus groups, a large survey of Blacks and non-Blacks in selected areas of Nova Scotia, and an examination of racial differences in sentencing for theft convictions in the Halifax/Dartmouth metropolitan area. In addition, as a companion piece to this study, an additional and more intensive analysis of sentencing patterns in the case of assault convictions was subsequently conducted. Overall, the diverse methodologies strongly support the study's guiding hypotheses and yield a consistent set of findings. These results are systematically detailed in summary form in Part 5 of this report. Prejudice and discrimination against Blacks in all major institutional sectors of society, including the criminal justice system, is perceived to exist by the population at large, more so among Blacks but commonly by non-Blacks as well. As indicated in the special in-depth key informant interviews the existence of prejudice and discrimination in the justice system is confirmed by those most experienced with all aspects of the justice system. The examination of sentencing patterns also indicated that, whatever the ultimate reasons may be, whether strictly "legal" or reflective of socio-economic and other "extra-legal" factors, for the same type of offence Blacks received somewhat more severe sentences and were less likely to receive the more lenient type of sentences (*i.e.*, discharges).

In advancing recommendations the authors have taken into account not only the views of participants in this research but also the considered experiences of scholars and practitioners from elsewhere in Canada. In "placing" the recommendations three important contextual factors and three major issues were noted. The former included the long history of the burden of Blacks' oppression (from slavery and Jim Crow practices to economic marginality and continuing socio-economic disadvantage), the fact that Blacks constitute a relatively small proportion of the Nova Scotian population, and the pattern of a limited, reactive approach to prejudice and discrimination on the part of government departments and agencies and within the criminal justice system *per se*. The

major issues cutting across all areas of recommendations, be they the police, courts, correctional system or monitoring agencies, included the emphases accorded to technical/liberal (education, public awareness) as opposed to power (new laws, putting Blacks in positions of influence) strategies, dealing at the individual or at the structural level and the extent to which changes and reforms must also be programmed and aggressively monitored.

Detailed recommendations were advanced with respect to policing and the court system since these were the two areas highlighted in the research. Concern was focussed on police standards, police training in the areas of human rights and multiculturalism, and the relatively impermeable ethos and structure of the police organization vis-à-vis Blacks and other special groups. Better training both at the entry level and beyond, more minority presence in police organizations, more positive leadership by the Police Commission and police management, and more independent civilian review of police actions were called for. Most importantly perhaps was the clear need for more contact and linkages of an everyday sort where input and understanding could develop. At the level of the court system similar recommendations for training, sensitivity, minority representation, and aggressive proactive leadership were noted. In addition, specific recommendations were advanced concerning the appointment of special court workers to liaise with offenders and regularly report on proceedings, the shoring-up of legal aid resources and the development of a fine option program. As for the correctional system, in addition to similar recommendations, it was noted with regret that there seems to have been a move away from the rehabilitative emphasis and that two local programs which assisted the Black inmate/ex-inmate have recently been terminated for lack of resources; programs such as these need to be strengthened, not eliminated.

In addition to the police, courts and correctional systems there are important roles related to management, planning and monitoring of the criminal justice system. Much more should be done in these areas by the Nova Scotia Police Commission, the Attorney General, the Human Rights Commission and perhaps the Ombudsman's Office. Detailed recommendations have been advanced with respect to these organizations. Of course the criminal justice system is but one institution of society. Important changes have to be made to eliminate prejudice and discrimination in education and employment. Making changes, eliminating prejudice and especially discrimination requires vigorous pressure by Blacks themselves. Most importantly they require strong leadership by the provincial government. Benign neglect as a strategy will not do.

Preface

This monograph is based on multi-dimensional research dealing with the issue of racial discrimination against Blacks in the criminal justice system of Nova Scotia. Commissioned by the Royal Commission on the Donald Marshall Jr., Prosecution, the research probed the ways by which prejudice and discrimination, long characteristic of Nova Scotian society, may have and/or be seen to have affected the attitudes, expectations and experiences of Blacks.

Following preliminary discussions with both the Royal Commission staff and members of the Black United Front, the study was launched in the fall of 1987. This report outlines the methods and assumptions of the research, the diverse sub-projects engaged in and the findings thereof, and the implications and recommendations of the study. The limited time schedule and the limited resources available restricted the researchers in several ways. It was not possible to focus on the social climate of the 1970s when the Marshall prosecution took place or do in-depth "ethnographic" analysis of the Black experience in the criminal justice system from police contact to court and correctional systems; nor was it possible to undertake detailed investigation of several controversial incidents over the past decade or so in which Blacks were slain. It was possible however to conduct a major survey dealing with the attitudes and experiences of both Black and White Nova Scotians, to interview key informants both singly and in discussion groups, and to examine in at least a limited way how the sentencing process affected Black and White offenders. Moreover these research efforts were placed in an historical and structural context. Accordingly it is our hope and expectation that this report can serve as a catalyst for change especially, but not only, in the province's criminal justice system.

The Director of the project which generated this research was Dr. Wilson Head. He was responsible for launching the research, designing the survey instrument and carrying out and writing up the individual and group interviews. Professor Don Clairmont took responsibility for the analyses of data and write-up of both the survey (see Appendix 3) and the sentencing sub-projects (see Appendices 4 and 5). In addition he gathered and wrote up materials dealing with current socio-economic and demographic conditions and the role of monitoring agencies (see Appendices 2 and 7). The co-authors shared in the final editing of the entire report.

Other persons contributed much to this study. Winston Barnwell played a significant role in both the survey and the sentencing project with respect to coding, analysis and write-up. Rhonda Crawford, the other major research assistant, assumed significant responsibility for assisting with the recruitment, orientation, training and supervision of the survey interviewers and with the recording of individual and

group interviews. Anthony O'Malley contributed significantly to the sentencing sub-project.

All aspects of the study were carried out with the detailed and helpful support of John Briggs, Director of Research for the Royal Commission. The critical and constructive comments of the three eminent reviewers of an earlier draft of the research, namely Dan McIntyre, Tony Johnston and Llewellyn Watson, were greatly appreciated. Special thanks are extended to Jan Cook, Jean Miller, Laurie Burnett and Barbara Shanks of the Royal Commission support staff for their generous and friendly collaboration. Finally the authors wish to thank all those who participated in the actual research effort as respondents, key informants or on behalf of their organization.

Part 1

The Context

1.1

Introduction

This study of discrimination against Blacks in the criminal justice system was authorized by the Royal Commission in 1987. The Commissioners were appointed by the Government of Nova Scotia as a result of controversy surrounding the wrongful conviction of Donald Marshall, Jr. for a crime it was subsequently discovered he had not committed. The Commissioners recognized the importance of a broad investigation of the circumstances and context in which the event had occurred. It was also considered important for the investigation to assess the possible effect of racial attitudes and discrimination upon the operation of the criminal justice system. To this end several research projects were commissioned, some dealing directly with aspects of the criminal justice system, and others focussing upon broader areas of attitudes and perceptions as well as the justice system experiences among Nova Scotian Blacks. The Black United Front of Nova Scotia, which had requested and was granted standing by the Royal Commission, supported this decision and agreed to (and subsequently did) cooperate fully in the undertaking.

1.2

Discrimination: A Definition

Since this study focusses on the phenomenon of discrimination against Blacks in Nova Scotia and the criminal justice system it is necessary that the concept be clarified. The Webster's New World Dictionary defines "discrimination" as: "The ability to make or perceive distinctions, perceptions, discernment. To make distinctions in treatment, show partiality, (in favour of) or prejudice (against)". In recent years the definition has been broadened to include direct and indirect forms of discrimination. Direct discrimination is based on negative or prejudicial attitudes with the intent of denying equal treatment to an individual or group. Indirect discrimination may be unintentional but a result of institutional or structural policies or practices which deny opportunities based on race, sex, national origin, or other arbitrary distinctions. The term "structural discrimination" is used to describe indirect discrimination in this study. Related to the concept of structural discrimination is the notion, increasingly accepted in legal circles (see Appendix 8), of adverse effects, which acknowledges that because of certain factors taken into consideration before sentencing, some groups of people experience indirect discrimination because of these factors.

This research began with the assumption that the Donald Marshall, Jr. miscarriage of justice did not occur in a vacuum. It was felt by the researchers that the operation of the justice system was likely influenced by general community attitudes and practices vis-à-vis racial minorities. It was also felt that any significant level of racism in local communities and in the province as a whole might be

reflected in the various sections of the criminal justice system: the police, the courts and the correctional system. An assessment of the possible adverse effects associated with involvement in that system was also considered as desirable.

A study of this nature requires a broad approach to data collection and analyses. The study was designed to collect a variety of information using a variety of methodologies. Three general approaches to data collection were used. These included a survey based on a structured questionnaire, input from individual and "group" interviews with selected informed community leaders and persons knowledgeable about the justice system, including a group of lawyers, both Black and non-Black, and an examination of specific sentencing records obtained from the Halifax courts. These approaches are outlined in detail in the section of this report dealing with methodology. The specific goals and basic assumptions guiding the research and the overall development of this study are also detailed below.

The general outline of the report subsequent to sections dealing with objectives and methodology will be as follows: a brief historical overview of the experiences of Blacks in Canada and in Nova Scotia and a description of the current demographic and socio-economic patterns with respect to Nova Scotian Blacks; description and analyses of the special individual and group interviews; a description and analyses of data collected in the survey; assessment of sentencing records from the Halifax courts; a general summary of findings; and finally a discussion of implications and recommendations for change. Appendices follow the text of the report.

1.3 Objectives and Assumptions

The objectives and assumptions (or hypotheses) of this research project can be stated in straightforward, point form. The objectives include:

- To determine the actual experiences with and perceptions of the criminal justice system on the part of samples of Blacks and non-Blacks from across the province.
- To compare and contrast Black and non-Black experiences with and perceptions of the treatment of Blacks in several areas of community life, including the criminal justice system.
- To analyze these experiences and perceptions in relation to social and demographic variables including age, education, occupation, colour, sex and area of residence.

-
- To determine the level of awareness of respondents with respect to the availability of Nova Scotia Legal Aid and knowledge of how to gain access to these services.
 - To determine and identify respondent involvement in the various sectors of the criminal justice system and to evaluate the impact of involvement on their attitudes and perceptions.
 - To obtain similar information from Black community leaders and persons knowledgeable as regards the operation of the criminal justice system.
 - To examine sentencing with respect to theft convictions in order to determine the significance of race in sentence severity.
 - Based on carefully analyzed survey data as well as the views of knowledgeable people in the Black community and taking into account the results of the sentencing sub-study, to draw conclusions and make recommendations which may lead to improvements in various aspects of the criminal justice system in Nova Scotia.

No research is carried out without some assumptions or hypotheses being held however implicitly by the researchers. Here we state for the reader our basic hypotheses, namely:

- On the basis of observations of numerous writers and individuals and the perceptions of some minority group members, it is assumed that this research study will document a high level of hostility to, and distrust of, the criminal justice system by Blacks in Nova Scotia.
- That both the perception and actual experience of unequal treatment will vary by racial groups. Fewer non-Black respondents will identify discrimination as a problem than Black respondents.
- That the Black population will reflect lower socio-economic characteristics than non-Black and that this fact, combined with racist attitudes, will be associated with higher levels of unequal treatment.
- That for similar criminal behaviour (comparable offences) racial minorities receive harsher treatment by the police and by courts, are convicted more frequently, and receive more severe sentences than members of the non-Black population.

1.4 Methodology and Procedures

As noted on the previous page, in order to deal with the objectives and hypotheses of this study, even if more modestly than one would hope because of the pressures of time and the limited resources available, it was necessary to employ three major methodological strategies: the survey, "elite" interviewing, and examination of sentencing records. Before discussing each strategy in turn it should be noted that this study is focussed on the current situation in Nova Scotia. It does not attempt to deal with the race conditions circa 1971 (the time of the Marshall/Seale case) nor does it deal with actual police and other contact with the Black community. The latter concerns are important but beyond the scope of this study.

Turning to the survey, it was considered valuable to determine the attitudes and perceptions of Blacks towards the criminal justice system and the pattern of their experience with it, and the kinds of changes seen as desirable and feasible for it. It was also considered important to be able to interpret the data by age, location and so forth. In order to provide a modest basis for comparison as regards perceptions, attitudes, experiences and recommendations it was decided to include a small non-Black sample as well. There was an additional advantage in including the latter, namely that the study could then canvass, to a degree, the extent to which discrimination against Blacks and the need for change in the criminal justice system are seen in the society at large.

The implementation of the survey began with the

- development of a comprehensive plan of action including a review of appropriate literature, outline of work to be accomplished, and selection of appropriate data collection methods;
- decisions regarding the most appropriate type of data required for dealing with specific questions;
- development of a questionnaire to obtain information for quantitative analysis, and pre-testing of that questionnaire;
- recruitment, selection and training of interviewers to conduct interviews in various communities in the province. With few exceptions, interviewers were community workers known to the Black United Front of Nova Scotia and working in the various local communities of the province. A one day training session was held in Halifax;
- selection of samples of survey respondents. The sites for interviews were Halifax/Dartmouth, Sydney, Preston, Lake Loon/Cherrybrook, Monastery, New Glasgow and the Yarmouth/Digby/Weymouth area.

A total of 524 interviews were conducted, including 365 Blacks and 159 non-Black respondents. Except in Sydney, where some non-Blacks refused participation because they objected to the publicity of the Marshall Commission, there were very few refusals and the overall cooperation was very positive. The sample will be discussed in detail below but a few points should be made here. There is no list of Nova Scotian Blacks available anywhere so the strategy employed was to sample a variety of urban and rural locales, and to strive for roughly equal numbers of male and females as well as a significant number of persons under 25, the age category most likely to be involved negatively with the criminal justice system. No systematic comparison has been drawn with the census Black population so all that can be said is that the sample is a broad cross-section of Blacks in the province. The non-Black comparison sample is only useful as a comparison point and then only with respect to the urban Black population since few non-Blacks were interviewed outside the metropolitan Halifax-Dartmouth area.

As for the special individual and group interviews, a total of 62 interviews were conducted. Most interviewees were "community leaders", that is, informed individuals closely identified with and aware of attitudes and practices in their own communities. Forty-three respondents were interviewed in seven different focus groups. Nineteen respondents were interviewed in face to face interviews. Individual and group interviews were conducted by the project director alone or in cooperation with a research assistant. Individual interviews were conducted in Halifax, Truro, New Glasgow and Sydney. Respondents included lawyers, a clergyman, community workers, educators, human rights activists, homemakers, social and recreational workers, and a group of ex-inmates recently released from correctional institutions.

The third method of data collection involved an examination and analysis of sentencing patterns through court records in Halifax. This project was not initially planned for and was limited to a relatively small sample of persons - a total of 177 individuals of whom 51 were Blacks - convicted for one specific *Criminal Code* offence, namely theft under Section 294 [row 334] of the Canadian *Criminal Code*. This sub-project was designed, carried out and written up by the trio of Clairmont, Barnwell and O'Malley.

1.5
A Short Note on the
Black Presence in Canada

The experience of Blacks in Canada has been characterized by ambiguity and continuous change. Most early Black arrivals in Canada were the servants or slaves of rich people. Unlike the United States, slavery was not popular in Canada mainly because it was not profitable under conditions existing at the time; therefore with the exception of the Maritimes, very few Blacks were brought to Canada during its early history.

Apart from earlier movements to the Maritimes, to be discussed below, the first large influx of Blacks to Canada came in the period preceding the American Civil War (1860-1865). It is estimated that approximately 50,000 ex-slaves, escaping from oppression and brutality in the United States, arrived in Canada during that period. As Winks (1971) noted, Blacks were welcomed in Canada when they were escaping American slavery. But that welcome came to an abrupt end when American slaves achieved freedom following the termination of the Civil War and ex-slaves found themselves facing prejudice and discrimination.

Barriers were raised to opportunities in employment and some communities refused to permit Black children to attend schools with White children. Some local communities insisted that Blacks live in segregated neighbourhoods, and a number of Black communities were established in rather isolated parts of the country, most notably in the Maritimes and in Southwestern Ontario (Hill, 1981). The result of this changing treatment was that several thousand Blacks left Canada and returned to their former country. Conditions remained difficult for those Blacks who chose to remain in Canada: succeeding governments and public opinion generally remained hostile to the presence of Blacks in local communities; restrictions were enacted preventing Blacks from entering some occupations; laws were enacted severely limiting the immigration of Blacks, Chinese and other non-Whites; Blacks were frequently refused services in restaurants and other places of public accommodation (Hill, 1981). This situation remained virtually unchanged until the end of World War II in 1945. The social, economic and political situation of Blacks in Canada has undergone considerable change in recent years. In particular "there has been the institutionalization of legal rights and citizenship privileges of non-Whites and the development of new organizations to protect and enhance their interests and to effect greater correspondence between their official citizenship and their everyday treatment by the majority" (Clairmont, 1976, p.192). These new organizations include Human Rights Commissions, other governmental agencies/departments and minority organizations. However, many of the former problems still exist and prejudice and discrimination against Blacks remains a present reality. Especial

concerns here have been the discrimination in education and employment.

The role of the Black church in Canada has been a focus of several important works, including those by Winks (1971), Hill (1981), Oliver (1977), and Pachai (1987). Black churches were initiated simply because Blacks were not welcomed in White religious institutions. From the early years of the 19th century, the Black church has played a pivotal role in the religious, social and cultural development of Canada's Black communities (Pachai, 1987). Black ministers usually were the significant leaders in Black communities. While the Black church and its leaders have been at the root of most community organizations and nurtured a sense of self-pride it is important to note that new leadership gradually developed in a variety of fields of endeavour.

A number of important recent studies have documented the existence of discrimination in present Canadian society (Hill, 1981; Pachai, 1987; Head 1975, 1981; and Jain, 1987). Studies by Parliamentary Committees of the Federal Government, "Equality Now" (1984), "Equality for All" (1985), and Report of the Royal Commission on Equality in Employment (The Abella Report, 1985), have also documented the existence of widespread discrimination against Blacks and other visible minorities in Canada. Numerous recommendations have been made aimed at removing barriers to equal participation in employment, the media, educational institutions, the public service, and other aspects of Canadian society.

Two very significant studies, "Who Gets the Work" and "No Discrimination Here?" jointly published in 1985 by the Urban Alliance on Race Relations and the Social Planning Council of Metropolitan Toronto, showed that there is massive evidence that discrimination in employment remains a major problem in Canada. The following quote from "Equality Now" summarizes this problem:

"A tension exists in Canadian society between the original European partners in Confederation who dominate Canadian institutions and the other people who wish to share fully in the institutional life of the country. Inherent in the notion of the diversity of Canadian society as a "mosaic" is the equal participation of the pieces making it up."

In summary then it can be noted that some significant changes are appearing in some areas of Canadian society. These include small increases in the number of employment opportunities for non-Whites in the media, the business world, educational institutions and in the political life of the country. New immigration policies have made it possible for hundreds of thousands of immigrants to settle in Canada

since 1967, most of whom have roots in the so-called "Third World" or non-White countries. Responding to public pressure, various levels of government have enacted human rights legislation and have established Human Rights Commissions with responsibilities to act against discrimination based on race, colour, ethnic origin, sex, age and other prohibited grounds. While the effectiveness of these initiatives is open to question, at least some progress in reducing the effects of prejudice and discrimination is observable. However slowly, the complexion of Canada is changing.

1.6 Blacks in Nova Scotia: A Brief Historical Background

According to existing historical records, Matthew de Costa, a young Black slave, arrived in Port Royal in 1608. De Costa, a Portuguese-born Black, was a member of a French colonizing expedition. He was one of many Blacks who had been captured, enslaved and pressed into the service of a colonial master during the early years of the 17th century. However, during subsequent years only small numbers of Blacks were brought to the province. European colonizers were too busy fighting among themselves in their attempt to obtain new territories, resources and markets.

Major changes occurred in the 18th century. The build-up of Nova Scotia was accompanied by a growth in slavery. Prior to the Loyalist migration associated with the American Revolution there were at least several hundred, and perhaps as many as 500 slaves in Nova Scotia, between three and five percent of the total population (Clairmont and Wien, 1976). Official government documents indicate that the sale or transfer of slaves was a common occurrence and notices were posted which offered rewards for the return of runaway slaves (Hill, 1981; Pachai, 1987). As a result of the American Revolution the first of two large waves of Blacks came to Nova Scotia and to other parts of the Maritimes. About 1,000 slaves, usually referred to as servants, accompanied the White Loyalists to Nova Scotia. It has been estimated that additionally more than 2,000 former slaves who had fought on the side of the British were settled in Nova Scotia. Several hundred free Blacks also arrived in the area following the war (Pachai, 1987).

Pachai (1987) and other writers have noted that the British had promised the Black Loyalists that suitable land would be made available for farming and other agricultural pursuits. The record indicates however that Blacks were given only very small plots of rocky, infertile and unsuitable land - and this only after non-Black refugees had been awarded the best and largest plots of land. Many Blacks could not survive under these hostile conditions and were forced to migrate to the towns and cities where they often were unable to compete with the better educated and more highly skilled

non-Black population. For those who remained on the rocky farms the result was abject poverty and near starvation. The present patterns of poverty and isolation of Blacks in Nova Scotia can, according to Clairmont and Magill (1973), be traced back to that period of the history of Nova Scotia.

The disillusionment of the Black population led to a significant migration in 1790 when approximately 1,200 Blacks left the province to settle in the west African country of Sierra Leone. In 1800, the initial migrating group, composed primarily of the early refugees, was joined by approximately 500 Maroons, a group of West Indians who also found that their dreams of a new land of freedom in Nova Scotia had been illusory. The harshness of life in the new world drove these men and women to face the unknown and to seek a new life in a strange and unknown environment.

The second large migration of Blacks to Nova Scotia came during the early years of the 19th century. Between 1813 and 1816 approximately 3,000 Blacks (called Refugee Blacks) fled from the United States and made their way to Nova Scotia and other parts of the Maritimes. These escaped slaves had, as in the past, identified with the cause of the British, and accepted offers to migrate to Canada. As Pachai (1987) notes, they could not have arrived at a worse time. A combination of a severe winter, a poor harvest and a lack of employment resulted in a downturn in the economy, unemployment and shortages of food. Blacks were considered an "inconvenience" and a threat to the employment opportunities of the non-Black population. Their numbers, according to statements by some non-Blacks "should be kept down" (Pachai, 1987). A result of these attitudes is that the proportion of Blacks in Nova Scotia, New Brunswick, and other parts of the Maritimes has always been very small - perhaps less than 5,000 individuals during the 18th and 19th centuries.

After these two large migrant waves the Black population in Nova Scotia received only modest infusion. Black communities grew up near and around small towns and on the fringes of urban areas and many of these communities exist even today. The economic and living conditions in these area have been harsh. The gravity of underdevelopment in Nova Scotia has affected all of its population but especially Blacks who had the additional burden of discrimination and neglect. Physical isolation and alienation were characteristic. The urban areas of Halifax and Sydney provided more favourable economic and social climates, however here too prejudice and discrimination were encountered when Blacks attempted to improve their economic and social conditions, particularly in periods of high unemployment (Pachai, 1987).

Attitudes expressed by some legislators and other leading citizens

regarding Blacks have, over the years, been remarkably consistent. Blacks have been viewed as undesirable, unable to adapt to a cold climate, shiftless, lazy and fit only for slavery and as servants of the wealthy. The result has been a population deprived of equal educational and employment opportunities and a lack of adequate public services and housing.

As noted earlier the largest migration of Blacks to Canada occurred between 1820 and 1860 during the period leading up to the American Civil War. It is estimated that approximately 50,000 Blacks, largely through the efforts of the underground railroad sympathizers, made their way into Canada. However, this large migration movement had relatively little impact on Nova Scotia. Most of these escaping slaves settled in southwestern Ontario where they initially found a relatively warm welcome. Differences in regional economic, political and social conditions, plus more positive acceptance by the general public, were of major significance in accounting for the different current status of Blacks in the two different geographic areas of the country.

1.7 Church and Community Leadership

Given the dismal conditions under which the Black population has lived during the last 200 years, it is reasonable to ask, "How could they have managed to survive?" In general, two different answers can be given to that question. First, it was the determination of the people themselves to survive even under the most difficult conditions. Having lived under conditions of slavery they knew what it was like to bear almost unbearable burdens. The word "community" had a different meaning than is now understood by that overused but rarely defined term. It was a system of mutual support and caring for each other. The record indicates that sharing both spiritually and materially with the less fortunate was a common occurrence.

Second, the Black church was the one organization they succeeded in building and could turn to for support and leadership. The Black minister became perhaps the most influential member of the community. Initially Blacks attempted to become members in neighbouring White congregations and share in the spiritual guidance available from those bodies. But Blacks found that they were not welcomed, and decided to establish their own churches. Bertley (1977) points out that the church gave the former and current slaves and their descendants the "courage and strength to continue their laborious toils under incredibly barbaric conditions. It permitted them to hope and plan for a better future."

Many historians and other writers, including Bertley, Pachai, Oliver, Clairmont and Magill, have stressed the importance of the Black church during a critical period of Black existence in Nova Scotia and other regions of the Maritimes. It was often the only organization existing in many of the widely scattered Black communities of rural Nova Scotia. Black churches produced, even under difficult circumstances, extremely effective and energetic leaders. Perhaps the most prominent of these leaders were David George and Richard Preston. David George, an ex-slave, began his work in Shelburne in 1782. He was largely responsible for organizing the migration of Blacks to Sierra Leone in the year 1790. This move followed the difficulties of providing a religious ministry in an atmosphere of extreme hostility from the local White population.

The exploits of Richard Preston were legendary. Almost single-handedly, he travelled throughout the entire province visiting local Black communities and establishing Black churches. In the absence of public transportation, he travelled on foot. He was the moving spirit behind the establishment in 1854 of the African United Baptist Association, a federation of 19 Black churches located throughout the province.

These two outstanding leaders, however, were not alone; other Blacks while connected with the church provided strong leadership and example in areas of secular activity. Among these were William Edward Hall who was the first Black to be awarded the Victoria Cross for outstanding bravery while serving in the British armed forces. Another was James Robertson Johnson, the first Black lawyer to graduate from the Dalhousie University Law School. Another Black lawyer, Abraham B. Walker, was a tireless worker in the struggle to persuade local and provincial governments to provide support to Black communities. Unfortunately, in spite of continuous efforts, his work met with little success. Governments had no interest in helping an unwelcomed Black population. Both lawyers were active lay participants in the affairs of the African United Baptist Church.

More recently, other Blacks have also received recognition for outstanding personal achievement, including the singer Portia White, athletes, educators, a newspaper editor, civic workers and others. Two scholars and educators, Dr. Carrie Best and Dr. William Oliver are examples of strong and courageous leadership in 20th century Nova Scotia society. In recent years a group of younger leaders have emerged from the Nova Scotia Black community. Although there are others, one younger man has stood out as an effective but controversial figure. Unfortunately his courageous and determined leadership has aroused considerable concern and hostility in the

larger non-Black community and even in some sectors of the Black community who fear that his tactics have and may continue to create hostility in the larger White community thus reducing the likelihood of government and corporate support of Black efforts to advance their cause. There is some evidence that these fears are warranted. However, the history of Black struggles to improve their social, economic and political conditions have continuously been thwarted by government refusals to heed their pleas for help.

Perhaps the best account of this refusal to support the Black communities of Nova Scotia is recorded by Clairmont and Magill (1969) in their story of the destruction of Africville, a former Black community on the outskirts of Halifax. In spite of repeated delegations to City Hall and to the Provincial Government, water, electricity, transportation services, sewage disposal, and other civic services were never provided. In the early 1960s the community was bulldozed and its residents dispersed. Fortunately Africville has become a symbol for Blacks to rally around, a symbol of the value of community and the threats to it.

It is from this history and experience that the perceptions, attitudes and experience of Blacks in Nova Scotia detailed in this study are derived.

1.8 Blacks in Nova Scotia: Present Conditions

The remarkable fact for Blacks in Nova Scotia is that over the last 200 years conditions, until recently, had not significantly changed. Some economic, social and political gains of Nova Scotian Blacks were observable but the condition of the non-Black population improved to a much greater extent. Pachai (1987), in a recent paper, noted that "While the Scots are now members of the mainstream, Blacks remain far behind on the fringes of Nova Scotia society." For example, Clairmont and Magill (1973) focus on the "marginality" of Nova Scotian Blacks. Jackson, Elms, and McEwan (1973), quoting a presentation by the Dalhousie Institute of Public Affairs to the 1969 Special Senate Committee on Poverty, noted that "references to Black schools were not removed from the *Nova Scotia Education Act* until 1954." That report also noted that "the Black population has had to carry a special burden, the burden of White prejudice, discrimination and oppression...their poverty is rooted in the structural and historical conditions of Nova Scotia society" (Jackson, Elms and McEwan, 1973).

In addition, the existence of "Jim Crow"* practices and segregation even in many public services, including segregated schools, have been major obstacles to social and economic advancement of the Black population. For example, Winks (1971) noted the continued segregation of many Black children in all-Black

* The term "Jim Crow" refers to a system of laws enacted by Southern American states to maintain Blacks in a subordinate and segregated position in American society.

schools until the mid 1960s. The effect of this negative treatment on psychological health and motivation is profound. Henry (1973) wrote of the severely under-educated Black population "even in a province known for its limited educational programs and facilities." Current accounts of the Nova Scotia Human Rights Commission regarding complaints by Blacks alleging discrimination lend additional support to the validity of the general picture drawn above.

Nevertheless Nova Scotia Blacks have enjoyed some limited success in their effort to escape poverty and subordination. For example, Wien and Brown (1981) refer to the fact that Blacks had a higher representation than some non-Blacks in the labour force. Wein and Brown also pointed out that Blacks in Sydney have managed to achieve a fairly high level of education; there the union affiliation and different pattern of settlement have enabled Blacks to break through many obstacles.

Pachai, in a paper published in 1987, noted that members of the Black community in Nova Scotia have always known what needed to be done on their behalf. They have been keenly aware of the extreme difficulties they have experienced in a society dominated by prejudice and racism. It would be a mistake to assume that the difficulties they have experienced have left them totally without hope and determination to do what they could to expand the democratic freedoms and opportunities for Black progress.

Examples of these initiatives are the many appeals and petitions made by Blacks to the Provincial Government regarding the establishment of all Black schools in several local communities. As Pachai noted "separate schools evolved because of the law enacted in 1811 which provided for state subsidies for public schools requiring matching funds through taxation...separate churches evolved because the establishment refused to cater to Blacks as undifferentiated members of the congregations."

While the Black communities of Nova Scotia reacted to this treatment by establishing separate churches and a few other institutions, they nevertheless continued to petition for government support for their efforts to improve their economic, social and political conditions within the mainstream of Nova Scotian society. In general, these efforts were fruitless. By the end of the Second World War, the failure of Blacks to obtain government support for the ordinary public and other services led, *inter alia*, to their expanding their own efforts to initiate and develop their own unique institutions. This new emphasis, growing out of previous frustrations, resulted in the formation of several new organizations. Among these were the Nova Scotia Association for the Advancement of Coloured People (modelled after the National Association for the Advancement of Coloured People in the United States). In one sense

these organizations represented the emergence of a new type of leadership in the Black community of Nova Scotia; in another sense, they provided the basis for the development and emergence of a new breed of younger Black leadership in the province.

Examples of this new leadership possibility are the establishment of a few Black professional organizations such as the Nova Scotia Association of Black Educators, a budding group of Black social workers, and a slowly increasing number of Black lawyers, medical doctors and other professionals. Their skills and energy have been and will continue to be tested in the effort to arrive at a fair resolution of the many unresolved problems still facing the Black communities of the province.

Other achievements have been recorded by Clairmont and Magill (1973). Blacks have won the right to be consulted by government in matters affecting their social, economic and political conditions in the province; for example, the enactment of legislation such as the *Fair Employment Act*, *Fair Accommodation Act*, and more recently, the *Human Rights Act*. The establishment of the Black United Front was a unique event in the Black community. These are small steps but they indicate that, at least to some degree, Blacks are beginning to sense that change is possible.

1.9 Socio-Economic And Demographic Conditions

More recent studies of the present economic and social conditions of Blacks in Nova Scotia would be desirable. Professor Clairmont undertook to develop a demographic and socio-economic profile based largely on two available surveys of socio-economic conditions among Blacks in Nova Scotia. Tables from these studies which are referred to below can be found in Appendix 2 of this report. A study conducted on behalf of the Black United Front (BUF) in 1979/80, and another conducted by the Marginal Work World Project (MWW) during the period 1976-81, provide important data and analyses on the present Black experience in the province. The BUF study suggests that Blacks are much more likely to have low incomes than non-Blacks (however, caution should be exercised since data were not available for over half the Black households surveyed). The median Black household income was \$8,450 in 1978, which was roughly 57 percent of the median income for all Nova Scotia households in the same year, namely \$14,851.00. (These figures are shown in Table 3-9, Appendix 2.) Data from the MWW project (see Table 16, Appendix 2) corroborate this finding by indicating a high level of dependence by Blacks on social assistance throughout the province.

The BUF study indicated that Black heads of household in Nova Scotia had a higher level of unemployment than the general population, a pattern that the researchers identify as "particularly disturbing" for obvious reasons. The unemployment rate among the former was 15 percent whereas among the general population of Nova Scotia - and we emphasize the general population not the household heads - the rate was only ten percent. (The data for Black household heads are given in Tables 2-8 and 2-9, Appendix 2.) Other Tables show the high unemployment, not to mention underemployment, that is the Black lot in Nova Scotia. Table 4.14 reveals that Black males have almost three times the rate of unemployment as the rest of the province's males: 22 percent to nine percent. Table 4.10 indicates a high level of commonality in the Black experience of unemployment throughout the province.

Similar findings concerning unemployment were obtained in the MWW project carried out at Dalhousie University. There it was reported that Black unemployment in Nova Scotia was a "staggering 25 percent of the Black labour force", well above the Nova Scotian average during the late seventies (see Tables 9 and 12, Appendix 2). Other Tables (Table 24 and Table 14) indicate that Blacks, when not unemployed, are in large numbers irregularly employed and that when employed are likely to work in low wage establishments. Table 2 reveals that only a small proportion of the Black population had achieved post-secondary education. The authors note that "the educational system of Nova Scotia does not respond to the needs of Black students and by extension to the needs of Black communities and that Blacks do not receive the basic education to prepare them for higher education particularly in science and technology."

It is clear that while Blacks have made gains in Nova Scotia in recent decades they are still struggling in terms of income, employment and education. It is also clear that they have been denied equal opportunities in employment, income and education, and that while Nova Scotia may not be an advantaged province in the Canadian federation, its economy and education system have been less responsive to the needs of Blacks than can be justified. One should not be surprised if the legacy of blatant racism, as well as more subtle modern versions, is found to manifest itself in the criminal justice system of the province.

The overall population of Blacks (Afro-Canadians) in Nova Scotia does not appear to have changed much over the past 30 years. The 1961 census recorded a Black population of 11,900. Research carried out in the 1960s (Clairmont, 1969) suggested that this figure may have underestimated the true population by a few thousand. The two surveys referred to above both yield results comparable to the 1961 census figures but since both depended upon the informant system to

identify Blacks it is likely that some significant underestimation of the Black population occurred. This is especially likely in the metropolitan area where there is significant dispersal and in those non-metropolitan areas where the Black population is so small and scattered as to have little organizational visibility.

Map A indicates that in 1980 the Black population was roughly 12,000, with over 65 percent residing in Halifax County. Both surveys in geographic areas where they overlapped yielded comparable population figures. It seems likely that in the event of underestimation - which could make the population as large as 15,000 - the County distribution patterns would closely match those depicted in Map A. It should also be noted that the 1986 census, which allows for respondents to indicate either single or multiple ethnic/racial origin, revealed a combined total of 12,945 persons claiming Black ancestry.

Map A
Nova Scotia Blacks, 1980



Part 2

The Interviews

2.1

The Individual and Group Interviews

As indicated in the Introduction of this Report, focus group interviews were held with four groups of Blacks, two groups of non-Blacks and one mixed racial group. The groups varied in size from four to a maximum of eight respondents. The seven groups included a total of 43 participants or an average of slightly more than six members. These focus interviews brought together persons more knowledgeable on the whole than the general public of either the Black community or the situation of Blacks vis-à-vis the criminal justice system. These persons then were usually either community leaders or participants in the criminal justice system. Two sessions were held in Sydney and five in Halifax. Notes of discussions were taken by the research assistants or by the project director.

This section of the report will present a summary of the findings of the focus interviews under the following headings (these were used as guides for the informal interviews):

- (a) Does discrimination exist in Nova Scotian society?
- (b) How and in what guise is it prevalent in the criminal justice system?
- (c) How would you rank discrimination in the various areas of social life (education, employment, etc.)?
- (d) What are the links between poverty and discrimination?
- (e) What are the adverse effects of discrimination and how do they affect the criminal justice system?
- (f) What suggestions would you make for change?

In the following material the quotes usually represent the observation of one respondent. Such comments are only presented here however when it appeared that there was general agreement with the observation.

2.2

The Existence of Discrimination

Although there were some differences in perception of the degree of discrimination all respondents agreed that discrimination against Blacks is an observable fact in Nova Scotian society. A small minority of respondents felt that discrimination was increasing; however, the majority felt that discrimination was "decreasing" or "remaining about the same". Several respondents indicated that in their opinion there was no need for the question, sharing the feeling of one respondent who stated that "the existence of discrimination is

obvious". The general feeling was that progress in eliminating prejudice and discrimination was slow and halting. Discrimination, both Black and non-Black respondents agreed, remains a major problem for Blacks in this province.

"Name calling" was cited as the area in which the largest decrease in racism had occurred. Some respondents felt that there had also been a considerable decrease in the incidence of police brutality such as beating of young Blacks while they were in custody.

2.3

Discrimination in the Criminal Justice System

Most respondents did not focus their major concerns here on the behaviour of the police, but rather on the courts. This emphasis was unexpected because the police are the first, and most frequent, contact with the criminal justice system; only individuals who are charged become involved in the courts. Research as well as experience has usually emphasized very significant discrimination at this key point and the public survey data discussed below strongly conforms with this broader finding. Certainly even in these groups the police area was considered biased. According to respondents many individuals, and particularly the young, have been victimized but occasionally have also been the beneficiaries of police discretionary powers. Many persons are not charged, it was reported, especially outside the urban areas where the police force is local (not RCMP) when minor infractions are committed.

In pointing to discrimination in the courts several respondents felt that "It is the judges who pose the problem". There was criticism that Blacks are usually tried by "White judges, White juries and Blacks are the victims". Most respondents felt that Black youths were often charged and sentenced for crimes they did not commit. The Donald Marshall, Jr. case was cited as only one example of a more general problem for disadvantaged Blacks or Natives.

A few respondents felt that Black parents should do a better job in teaching children to be "law abiding". The large majority of respondents, however, placed responsibility for ill treatment of Black youths squarely on the criminal justice system directly and the educational system more indirectly.

2.4

The Degree of Discrimination in Selected Areas

Respondents generally found it difficult to rank the seriousness of discriminatory behaviour by different social systems: schools, police, courts, employment, housing, et cetera. Several individuals said "all of them discriminate". Although some respondents stated that the criminal justice system was the worst discriminator, others indicated that school and employment discrimination were equally as bad. A few respondents felt that Blacks were treated better while

incarcerated in correctional institutions than they were by the courts.

Attitudes regarding the education system focussed largely on "streaming". Many Black and some non-Black respondents felt that too many Black students were "streamed" into vocational type courses. Responsibility here was placed on teachers and guidance counselors. The result, in the view of respondents, is that all too many Black students become frustrated and drop out of school. Frustrated young people, noted one individual, "can easily become anti-social and end up in the courts".

Poor educational opportunities, it was felt, often led directly to unemployment and poverty. A Sydney respondent stated the employment problem in this way, "there are no Blacks working on Charlotte Street (the central business district of Sydney)". Another respondent noted, "You can pick up the feeling of racism in many different businesses...even in places where you would least expect it".

Housing and social services were also cited as areas in which varying levels of racist attitudes and discrimination are found. There was a general feeling that Blacks with "good incomes" were often victims of housing discrimination, particularly in Halifax and Dartmouth; that feeling was less prevalent with regard to Sydney. It was not clear to respondents if institutional discrimination was a serious matter in the social welfare system; however, several cited instances where individual agency workers discriminated against Black clients. Several respondents said that "it [discrimination] depends on the worker". "Racist remarks" were said to have been heard when Black clients exercised their rights such as when seeking to appeal an unfavourable decision. In general, the social services system appears to evoke less anger and may generate less discrimination than in the areas of housing, education, employment or the criminal justice system.

2.5 Poverty and Discrimination

Respondents without exception agreed that there is a strong link between poverty and racism in Canadian society and more specifically between poverty and involvement in the criminal justice system. The great variety of reasons proffered on behalf of this view can be summarized as follows: "If you are discriminated against in education which prevents you from getting a good job you may become involved (in a negative fashion) in the criminal justice system." Not all respondents perceived such a direct linkage. For example, some respondents focussed discussion on family issues which may affect the attitudes and behaviour of youth. Many youth, it was pointed out, "live with their parents and everything is provided". In the view of these respondents there is no material need

to commit crimes. "Many who steal", these respondents said, "do so merely for pocket change". Other respondents also questioned the priority suggested with respect to socio-economic factors. For example one respondent stated, "There is no link between poverty and the criminal justice system but there is a link between racism and the system", the suggestion being that racism, not poverty, is the major cause of much deviant or criminal behaviour as defined by the authorities.

Discussions also focussed on the role of television in affecting the value system of society. The criminals on television, it was observed, "have big cars, nice clothes and show that being a criminal is worth it". The question was asked, "if a person is poor and uneducated then how do they acquire the nice material things of life except through crime"?

2.6

Personal Adverse Effects

Most respondents in both Sydney and Halifax/Dartmouth felt that the "loss of self-esteem" was one of the most serious adverse effects experienced by young people as a result of discrimination. This loss is viewed as the basis for many other negative attitudes and behaviours. Several respondents referred to the high level of anger among Black youth. Again, as in relation to discrimination generally, respondents felt that young people are more likely to engage in anti-social acts and to become negatively involved in the criminal justice system as a result of discrimination. That lack of motivation and a high level of apathy among Black youth was again related to low self-esteem. A further result was, in the opinion of many respondents, a loss of confidence again possibly leading to frustration, dropping out of school and deviant behaviour.

2.7

General Observations

Conversations following responses to the above questions reflected a consensus that Blacks were almost totally excluded from participating in the economic, social, political and cultural mainstream of Nova Scotian society. The attitudes and status of Blacks according to these informed persons can be characterized as "non-political and powerless". This long-standing condition, in the opinion of many respondents, has been maintained by poverty, barriers to voting in the past, and other obstacles to participation in the mainstream economic, political and other systems. The barriers to voting in the past took many forms, though most recently they were property-based. Many Blacks were said to have been deliberately denied the right to vote in municipal elections until 1965 because they did not possess title to property. Several respondents agreed that while many Blacks had lived on their lands for several

generations, sometimes the ownership was not registered. As indicated earlier, much of the land in question had been granted to Blacks by the British Government as a result of their participation in colonial wars.

Respondents observed that Black communities, varying in population from less than 100 to well over 1,000 individuals, are generally located on the outskirts of many Nova Scotia cities, small towns and villages. While there was some difference of opinion regarding the exact number of these small all-Black settlements, respondents reported that at least 30 still exist in scattered locations throughout the province. Many respondents felt that the scattered existence of these communities continues to make it difficult, if not impossible, to develop strong social institutions and leadership in the Black community of Nova Scotia.

A recent development, according to some respondents, is that a few non-Black individuals and families are beginning to move into some of these small communities. These non-Black families are considered as similar to the Black inhabitants, that is, poor and powerless. According to many respondents, the depressed state of these non-urban communities in Nova Scotia offers little opportunity for economic and social development. Poverty and racial discrimination, it is reported, are frequently considered as a "normal state of life in Nova Scotia" in such areas.

In discussing life in these small communities as regards police and courts, one respondent who admitted to some misdemeanors as a teenager reported that in the small town where he grew up the police never charged him. Everyone, including the police, knew everyone's families and, with rare exception, handled incidents in an informal manner. But this informal and non-legalistic way of dealing with problems depended to some extent on the nature of policing and the court officials. Respondents felt that the RCMP, composed of outsiders and unaware of local customs, often behave in an impersonal and legalistic (some suggested even "arbitrary") manner. Respondents noted that a similar pattern of behaviour is often, but not always, found in local courts. Some judges who live in the community and know the people are known to be lenient in their treatment of youths in the courts, whether they are Black or non-Black. Others, it was reported, tended to reflect general hard community attitudes and are quick to commit a Black to lengthy prison terms.

Several respondents observed that on the surface it often appears in the rural and small town scene that Blacks and non-Blacks enjoy warm and positive personal relationships. However, these relations do not appear to extend beyond the level of individual friendship in a limited social context. The general pattern of social and institutional

discrimination remains unchanged. Several respondents reported that many non-Black parents in the semi-urban areas still do not want their children to attend schools with Black children. In addition, employment opportunities for Blacks are severely restricted. As one former Sydney resident now living in the Halifax area stated: "Some supervisory and management jobs in the steel mills were completely closed to Blacks." Of course this kind of very direct and personal discrimination has not been limited to rural and small town areas. Racial hostility was clearly evidenced in a sign placed on a dock in a southern Nova Scotia city as recently as ten years ago; according to respondents the sign "No Coons Off The Dock" was a warning to Blacks.

The absence in Black communities of adequate housing, social services, transportation, sanitation and other amenities were emphasized by several respondents as "nothing short of deplorable". Africville, a former all-Black community on the outskirts of Halifax, was perhaps the best known of these areas. Although legally a part of the City of Halifax, Africville was almost totally neglected by successive city administrations. Neglect existed in spite of repeated efforts by inhabitants to obtain the normal city health, sanitation, transportation and other services; instead, Africville was bulldozed and its inhabitants dispersed throughout Halifax County and other localities. As Clairmont and Magill (1973) noted "Africville was a classic case of urban displacement of Blacks".

In more recent years, some respondents noted, there is some evidence that a few provincial government departments have made limited attempts to improve the conditions of Blacks living in many rural and semi-rural communities. But respondents stated that little has actually been achieved in changing the deplorable conditions under which Blacks live. Respondents felt that the major problem was a lack of government commitment to real change.

2.8 The Lack of Adequate Leadership

Virtually all community leaders expressed despair regarding the lack of adequate leadership in most rural and semi-rural Black communities. Respondents agreed that the church had provided some leadership in the past, but it appears now to be losing influence. The poverty and hopelessness of the population were said to make it difficult for leadership to emerge in the rural areas.

Other respondents called attention to inadequacies within the Black community itself. Both positive and negative implications of social life there were noted. The positive implications were identified as the presence of family and community support when conditions have been extremely harsh, and a family needed help in order to survive. The feeling that "we are all in this together" led to strong

mutual aid. On the other hand, ambitious people were often criticized for "trying to be better than others".

Nevertheless, respondents cited a few instances where neglected poverty-ridden communities are trying to improve their condition. As one respondent reported, "The Black community in my area is trying to get stronger and come together". She pointed out that although Blacks exist in a marginal condition some of their children are "beginning to graduate from high schools". The problem is "there are no jobs and youths must leave the community to find work". These relatively well-educated children are considered, as one respondent said, "the cream of the crop who could be most helpful if they remained". Still, some hopeful signs are emerging also with respect to employment. According to respondents a small number of Blacks are entering the business world, although on a very small scale. Moreover, there are some Black teachers in a few schools and an indication that Blacks are welcomed in some non-Black churches.

2.9

Views on the Urban Situation

The urban situation offers Blacks somewhat better opportunities than rural or semi-rural areas of the province. The numbers of Blacks integrated into the wider community, respondents noted, is still quite small. It was estimated that at least seven or eight Black lawyers live and work in the Halifax area. A few Blacks are reportedly teaching in universities in the province. Even a few police officers have been employed, some over a considerable period of time. Respondents recognized, however, that the middle and upper echelons of politics, business and the professions are effectively closed to Blacks. The number of Blacks entering the universities provides some evidence that a small middle class is appearing on the horizon. Respondents felt that if the young people can find opportunities in the province the chances are that they will remain.

Virtually all respondents, Black and non-Black, indicated that they themselves had remained in Nova Scotia because of a strong attachment to their communities and to the province. Respondents felt that the educated young people of today, however, appear more willing to leave for greener pastures elsewhere.

In general then community leaders expressed a mixed message. They are fully aware of the barriers to opportunity and acceptance of Blacks in Nova Scotian society. Discrimination and prejudice have been experienced and, to some extent, respondents have succeeded in spite of that reality. They are hopeful that better opportunities will be available to their children, but this attitude is balanced by their awareness of the significant barriers which still exist in Nova Scotia society.

2.10
The Individual Interviews:
Observation of Lawyers

A total of nine legal aid lawyers and private practitioners, more than half of whom were non-Blacks, were interviewed in the conduct of this study. Some lawyers had represented very few Blacks; others had frequently represented Blacks and were able to speak from considerable experience. The experiences of this group are quite similar. The differences that exist in their experiences and the inferences drawn from them reflect their involvement in urban (the metropolitan Halifax area, Sydney) or small town/rural milieus.

Some lawyers practicing in non-urban areas reported that most lawyers and court officials hold a very negative view of Blacks. Blacks and Native people are generally considered as "inferior and treated as ignorant and stupid". These attitudes reportedly are not generally exhibited in the courtroom, but rather in informal discussions and "loose talk" outside the courtroom.

Relationships between police, Crown attorneys and judges, it was reported, are more personal and informal than in urban areas. Many of these court officers have grown up together, have gone to school together and were friends or acquaintances. It was reported that such experience makes for a "cozy atmosphere in which Blacks were generally excluded". In those instances where Blacks were known to court officials, the attitude remained much the same as indicated above. Blacks were considered inferior and not deserving of dignity and respect. Blacks and Native people, some lawyers noted, were frequently the target of jokes and other derogatory remarks. This treatment, it was reported, is not restricted entirely to Blacks and Native persons; poor non-Blacks are often treated with less than proper respect by the personnel of the criminal justice system.

2.11
Some Perceptions of
Sentencing

Only limited evidence was reported suggesting that Blacks were given more severe sentences than non-Blacks by judges in non-urban areas. In a few instances, it was reported that when judges know the family of the accused, either Black or non-Black, they tended to be fairly lenient in their sentencing practices, a pattern similar to that described by the community leader focus sample referred to above. Some lawyers also indicated that the overall picture of judicial treatment of Blacks is further complicated by the fact that the Black population of rural and semi-rural Nova Scotia is small and widely scattered. In general, very few Blacks ever come to the attention of the courts as compared with non-Blacks, which of course reflects the population composition. Some courts are reported to refer cases back to community leaders for action rather than committing the individual to correctional institutions.

2.12

Some Perceptions of Policing

Generally the lawyers also agreed with other community leaders that non-legal factors may positively influence the attitudes and behaviour of rural and semi-rural policing. And most lawyers agreed that the attitudes and behaviour of the RCMP are often a major problem since they are less open to community input. In fact this "arrest and charge" RCMP pattern has led some to suggest that RCMP officers reflect prejudice and discriminatory behaviour when dealing with Blacks. Several lawyers reported that overall the system of policing may be based on a "mind set" whereby police know the "bad eggs" and tend to harass these individuals when an offence is committed and the culprit is unknown. Any Blacks with a court record, according to some lawyers, "will suffer a number of adverse effects".

Small towns and rural areas possess few facilities or human resources required to deal with those who come into contact with the criminal justice system. Lawyers pointed out that educational, job training, recreational, adequate housing and other facilities are either not available or inadequate. Most lawyers felt that until these problems are addressed, it is unlikely that criminal behaviour and the problems identified above can be more than marginally reduced.

2.13

Lawyers and the Urban Experience

Interviews with lawyers in Halifax/Dartmouth suggest that as in rural areas only a small number of lawyers have frequent contact with Black clients. One lawyer stated that he had only one Black client in his 15-year professional career. However, he added that he had observed instances in court where other lawyers represented Blacks. In the courtroom, he stated, "one could almost feel the subtle changes in the atmosphere of the court when a Black defendant was brought in". This change in atmosphere was, he admitted, hard to define or to "put one's finger on", but it was "real and disturbing". Again, poor non-Blacks were also subjected to this change in atmosphere, but to a lesser degree. The cause of the change, he felt, is an "obvious lack of respect for the humanity and dignity of the individual".

This subtle change in atmosphere is intensified when an individual Black is unable to understand and respond appropriately to court proceedings. Some officials, it was reported, make little or no attempt to disguise their contempt of Blacks and poor non-Black youth appearing in the courts. (This attitude was also passionately criticized by a focus group composed of Black youths who had been recently released from a provincial correctional institution)

The social structure of the province and of Canada as a whole was also severely criticized by some urban community lawyers. From this point of view, Blacks are victimized by a "racist ideology and a racist

social structure". Racism, in this view, permeates the entire social, economic, political and cultural environment of the province. A major example of this attitude is the fact that many Blacks were in jail simply because of inability to pay fines. Other lawyers, while not commenting on this major thesis, agreed that too many Blacks and poor non-Blacks are jailed for this reason. In the view of some lawyers the need to consider the total situations of Black youth especially should be taken into account prior to sentencing. Others agreed that "Over the years, the criminal justice system had become increasingly insensitive in its dealings with the victims of an 'unjust society'. Jailing people for inability to pay fines was described as the modern equivalent of the old English "Debtors Prison System".

2.14

Policing in Urban Areas

The general picture described by lawyers regarding policing methods in urban areas was considerably different from those relating to non-urban areas. The behaviour of police officers is said to be much less personal and informal. Both lawyers and other citizens expressed concern with alleged police harassment and other types of mistreatment of Blacks. The police are said to be "not very tolerant" when dealing with a young Black, particularly one who questions being stopped and asked for identification. Although, in the views of some lawyers, the incidence of police beating of prisoners has decreased, it is still considered a "serious and unjustifiable assault on defenseless individuals". There is general feeling among the lawyers interviewed that the police need better training, more effective administrative controls and more understanding of the fact that Canada is now a multicultural and multiracial society. A civilian complaint structure, in which police accountability would be increased, is considered by lawyers as an indispensable requirement for improving the quality of policing in the province.

2.15

Summary

These interviews and group discussions have provided a broad assessment of the conditions of Blacks in Nova Scotia, and more specifically in its criminal justice system. In general the interviews indicated that knowledgeable individuals from both urban and non-urban areas demonstrated a considerable degree of awareness and concern regarding conditions experienced by Blacks in the province. There was general agreement that Blacks face prejudice and discrimination in social, economic and political institutions, as well as in the criminal justice system.

Most respondents felt that prejudice and discrimination remained about the same as in previous years. Small numbers however felt that

discrimination is increasing or decreasing. "Name calling" was considered still to be prevalent but decreasing. Employment is still viewed as the major source of discrimination against Blacks, followed closely by discrimination in the criminal justice system and in education.

Attitudes toward the educational system focussed primarily on the "streaming" of Black children, that is, assuming Blacks possess limited learning capacity and placing them in non-academic programs. The assumed inferiority of Black children is often considered as "genetically normal".

It was recognized that prejudice and discrimination may lead to anti-social and even criminal behaviour. Blacks who come into contact with the police and the courts often experience differential treatment, based on race and locality. Non-urban or rural area police and courts are occasionally quite lenient in their treatment of Black youths because of their knowledge of the individual and his or her family. This lenient treatment is less often found in the urban areas of Halifax, Dartmouth and Sydney.

Individual and group respondents surprisingly expressed more concerns regarding the courts than with the behaviour of police. The most negative criticism of the courts came from the lawyers interviewed. The treatment of Black and even poor non-Black youth was generally considered as negative and lacking in respect for the dignity of the individual.

Overall, respondents presented a generally negative picture of the manner in which Blacks are treated by the criminal justice and other systems of the total society. Connections between general community conditions, *e.g.* poverty, racism, and involvement in the criminal justice system were clearly recognized. At the same time respondents expressed hope that some developments, *e.g.* increasing numbers of youth attending high schools and universities, may offer some basis for future progress.

A number of suggestions were made for changes; these are presented in the final Part of this report.



Part 3

3.1 The Survey

Table 1
Sample Nova Scotian Population Showing Age by Residence*,
by Race and Sex

Age	Black				Non-Black				
	Urban		Other		Urban		Other		Total
	M	F	M	F	M	F	M	F	
Less than 25 Years	50.5% (50)	44.8 (30)	35.4 (34)	36.3 (37)	50.8 (30)	41.7 (30)	40.0 (6)	22.2 (2)	42.2 (219)
25 - 54 years	38.4% (38)	47.8 (32)	40.6 (39)	42.2 (43)	32.2 (19)	51.4 (37)	33.3 (5)	44.4 (4)	41.8 (217)
55 years and over	11.1% (11)	7.5 (5)	24.0 (23)	21.6 (22)	16.9 (10)	6.9 (5)	26.7 (4)	33.3 (3)	16.0 (83)
Total	100.0% (99)	100.1 (67)	100.0 (96)	100.1 (102)	99.9 (59)	100.0 (72)	100.0 (15)	99.9 (9)	100.0 (519)**

* Urban includes samples from Halifax, Dartmouth and Sydney, all other areas are included in Other.

** Five cases had missing data. () - Represents number of people.

1. The Tables reproduced in this section retain the number they have in the fully appended survey write-up in Appendix 3.

The survey on discrimination in Nova Scotia was carried out in the fall of 1987.

As indicated in Table 1¹ the sample total was 524 drawn from eight different areas in Nova Scotia. The large majority of the respondents, 365, were Black while the Whites or non-Blacks

totalled 159. The latter were selected for comparative purposes and came largely from the urban areas of Halifax/Dartmouth and Sydney. They were interviewed by telephone. Black respondents were selected from community lists supplied by Black organizations, interviewed usually but not always by telephone and were slightly more likely to reside in areas outside the three cities noted. As indicated in the survey report (see Appendix 3) the sampling was carried out with a view to ensuring adequate numbers of

persons below 55 years of age and roughly similar numbers of the males and females.

The overall comparison of sample populations - Black and non-Black - indicates that Blacks have higher levels of unemployment, lower levels of formal education and are employed in less prestigious occupations. The Black sample tends to be less concentrated in urban areas and to have a higher ratio of males to females. Despite these differences the two samples exhibit roughly similar proportions on most attributes, especially when one takes into account the much larger non-urban component in the Black sample. In the analyses that follow, the sample differences will be controlled for by focussing on percentage differences and by simultaneous control of other variables as warranted. While the Table presentations will feature limited controls, analyses using multiple regression which effects simultaneous control for many variables will also be reported.

The intent of the survey was to ascertain the perceptions of the respondents of the degree of discrimination against Blacks, if any, which exists in the criminal justice system of Nova Scotia. To put this into context, respondents were asked to what extent prejudice and discrimination were a part of life in the province.

Table 6
Perceived Levels of Discrimination in Nova Scotia by Education* and Race

Perception of Discrimination	Black		Non-Black	
	Low Education	High Education	Low Education	High Education
Some Discrimination**	58.6% (129)	55.6 (80)	80.4 (45)	75.0 (75)
Great Deal of Discrimination	41.4% (91)	44.4 (64)	19.6 (11)	25.0 (25)
Total	100.0% (220)	100.0 (144)	100.0 (56)	100.0 (100)

() - Represents number of people.

* Low education levels includes all those who have not completed high school; all others are included in the High category.

** Only eight respondents said none. These have been retained in the sample under the rubric Some.

Table 7
Perceived Change in the Levels of Discrimination by Race and Age

Discrimination	Black			Non-Black			Total
	Less than 25 yrs.	25-54 years	over 55 years	Less than 25 yrs.	25-54 years	over 55 years	
Increasing	36.7% (55)	36.3 (53)	23.3 (14)	18.2 (12)	22.6 (14)	10.5 (2)	29.8 (150)
Decreasing	21.3% (32)	22.6 (33)	36.7 (22)	42.4 (28)	32.3 (20)	57.9 (11)	29.0 (146)
The Same	42.0% (63)	41.1 (60)	40.0 (24)	39.4 (26)	45.2 (28)	31.6 (6)	41.2 (207)
Total	100.0% (150)	100.0 (146)	100.0 (60)	100.0 (66)	100.0 (62)	100.0 (19)	100.0 (503)

() - Represents number of people.

Table 6 indicates clearly that Blacks are much more likely to report a great deal of discrimination. Nearly half the Black sample espoused this view while among non-Blacks the proportion was slightly under 25 percent, still a significant figure given that discrimination is presumed to be legally (in many instances) and morally wrong. The results of subsequent analyses when education, occupation and income are controlled for show similar patterns between the two populations with those in the higher categories of education and occupation more likely to report the existence of a great deal of discrimination (especially those of high occupational status).

Table 7 indicates that among Blacks those under 55 years of age were most likely to report that discrimination is increasing (over one third of that age group) while Blacks over 55 years of age were most likely to contend that it was decreasing (about 37 percent). Clearly in all age categories Blacks were more

likely, almost on a two to one basis, to perceive discrimination as increasing. Interestingly both populations were as likely in all age categories to see discrimination remaining the same so their differences are largely over the degree to which it is decreasing or increasing. In justifying their assessments respondents were most likely to recount personal experiences. Increased public awareness was the chief factor cited by those pointing to the decline of racism, while the endurance of old attitudes was most commonly cited for its remaining at the same level. Among those expressing the view that discrimination is increasing it was often noted that Blacks are not getting the economic benefits they had hoped for in recent years. Employment was the area where both Blacks and non-Blacks

Table 10
Perception of Discrimination in Treatment by Police by Age and Race

Police Discrimination	Black			Non-Black			Total
	Less than 25 yrs.	25-54 years	Over 55 years	Less than 25 yrs.	25-54 years	Over 55 years	
Yes	66.2% (100)	71.9 (110)	41.0 (25)	62.9 (44)	46.3 (31)	36.4 (8)	60.7 (318)
No	33.8% (51)	28.1 (43)	59.0 (36)	37.1 (26)	53.7 (36)	63.6 (14)	39.3 (206)
Total	100.0% (151)	100.0 (153)	100.0 (61)	100.0 (70)	100.0 (67)	100.0 (22)	100.0 (524)

() - Represents number of people.

Table 11
Perception of Discrimination in Treatment by Courts by Age and Race

Court Discrimination	Black			Non-Black			Total
	Less than 25 yrs.	25-54 years	Over 55 years	Less than 25 yrs.	25-54 years	Over 55 years	
Yes	48.3% (73)	58.8 (90)	32.8 (20)	42.9 (30)	46.3 (31)	22.7 (5)	47.5 (249)
No	51.7% (78)	41.2 (63)	67.2 (41)	57.1 (40)	53.7 (36)	77.3 (17)	52.5 (275)
Total	100.0% (151)	100.0 (153)	100.0 (61)	100.0 (70)	100.0 (67)	100.0 (22)	100.0 (524)

() - Represents number of people.

considered discrimination to be most operative. Unlike non-Blacks, Blacks also frequently pointed to the criminal justice system as an area of life where prejudice and discrimination still reigned.

In referring to the criminal justice system it was widely held throughout the entire sample that police discrimination against Blacks exists. About 60 percent of the sample took this view and, while Blacks were more likely to report this perception, Table 10 shows that young non-Blacks were as likely as their Black counterparts to report this racism.

A similar analysis for perceived discrimination in treatment by the courts is shown in Table 11 which reveals strong agreement among Black and non-Black age groups that the court sector of the criminal justice system also discriminates against Blacks. True, the proportions were less than in the

case of the police, but only among respondents over 55 years of age, Black or non-Black, did a clear majority think that there was little discrimination here.

The above patterns of reported perceptions of extant discrimination were further indicated in Table 12 which deals with whether Blacks are treated the same, more, or less fairly by different sections of the criminal justice system.

Again Blacks of all age groups were more likely to contend that they are treated less fairly by the police (over 75 percent reported this pattern) and even the non-Blacks generally concur with this view. Similar patterns were found for the courts and the correctional systems albeit to a somewhat lesser degree. It may be noted that both populations were largely uncertain as to whether Native persons are treated more or less fairly than Blacks. Few Blacks and even fewer non-Blacks thought that Native people receive preferential treatment. Finally, both populations recognized to almost the same extent that

Table 12

Perception of How Blacks are Treated by Sectors of the Criminal Justice System in Nova Scotia in Comparison to Non-Blacks by Age Groups

Fairness	Black			Non-Black		
	Less than 25 yrs.	25-54 years	Over 55 years	Less than 25 yrs.	25-54 years	Over 55 years
By Police						
More fairly	0.7% (1)	1.4 (2)	0.0 (0)	1.5 (1)	3.4 (2)	5.0 (1)
Less fairly	83.1% (123)	80.8 (118)	66.1 (37)	63.1 (41)	51.7 (30)	40.0 (8)
The same	16.2% (24)	17.8 (26)	33.9 (19)	35.4 (23)	44.8 (26)	55.0 (11)
By Courts						
More fairly	27.9% (41)	37.2 (55)	29.6 (16)	3.2 (2)	3.5 (2)	0.0 (0)
Less fairly	48.3% (71)	44.6 (66)	37.0 (20)	34.9 (22)	43.9 (25)	31.6 (6)
The same	23.8% (35)	18.2 (27)	33.3 (18)	61.9 (39)	52.6 (30)	68.4 (13)
By Correctional System						
More fairly	0.8% (1)	0.0 (0)	0.0 (0)	1.6 (1)	3.9 (2)	0.0 (0)
Less fairly	53.4% (70)	68.7 (90)	45.5 (20)	41.0 (25)	49.0 (25)	35.3 (6)
The same	45.8% (60)	31.3 (41)	54.5 (24)	57.4 (35)	47.1 (24)	64.7 (11)

() - Represents number of people.

involvement with the criminal justice system - as an offender - has negative effects on a person's future. Surprisingly there was agreement that the effect is more likely to be harmful for Blacks than for others. In both populations these effects were perceived to be especially harmful with respect to employment, education and housing.

The next section of the survey questionnaire dealt with respondents' involvement and direct experience with the criminal justice system. This section is more difficult to summarize since the questionnaire did not specify the involvement to be queried and so responses include "vicarious" involvement through relatives and friends and so on. Involvement as referred to can also range from speeding violations to serving as a witness. Moreover, for many questions the relevant numbers of respondents fall off since only

a minority of the sample has been in court and fewer still exposed to the correctional system. The reports of personal experiences with the criminal justice system show that Blacks and non-Blacks were equally likely to have reported some involvement (see Table 19 on the next page) though Blacks were more likely - the numbers are small - to have had an involvement with the correctional system.

Both male and female Blacks reporting a personal experience referred to an incident or charge of a non-traffic character more than anything else. The second most frequent experience, again reported by only a minority of Black respondents, focussed upon "being hassled by police". Among non-Blacks (again the reader is cautioned that the numbers are small) males were proportionately as likely as their Black counterparts to report an experience of a non-traffic nature though females rarely did. It may also be noted that only one non-Black referred to being hassled by police.

Table 19
Section of the Criminal Justice System Involvement Took Place With by Race and Sex

Section	Black		Non-Black		Total
	M	F	M	F	
Police	35.6% (64)	44.4 (28)	37.5 (27)	45.9 (17)	38.6 (136)
RCMP	20.6% (37)	19.0 (12)	25.0 (18)	24.3 (9)	21.6 (76)
Courts	28.9% (52)	30.2 (19)	27.8 (20)	29.7 (11)	29.0 (102)
Correc- tions	15.0% (27)	6.3 (4)	9.7 (7)	0.0 (0)	10.8 (38)
Totals	100.1% (180)	99.9 (63)	100.0 (72)	99.9 (37)	100.0 (352)

() - Represents number of people.

Table 21 points out a dramatic difference between the two populations in terms of their perceptions of how they were treated when they were involved with any part of the criminal justice system. While the clear majority of Black respondents, whether male or female, indicated that they were treated somewhat or very unfairly, most Whites said they were treated extremely well or fairly well. Clearly there is a significant estrangement of Blacks reflected in these data. It should also be noted that Blacks were more likely to say that they were not advised of their legal rights when charged and more likely to say that they are pressured to admit guilt by the police. Of course as expected it was the younger, less educated Blacks who were most likely to express these views.

The final section of the questionnaire dealt with suggestions and ideas that respondents had concerning changing the criminal justice system. They were asked which parts of that system were most interested in responding to community and individual requests for change (and why) and what specific changes they would recommend. Results indicate that the police were perceived by both populations to be the most responsive sector; this finding held true when the variables of age, sex and education were entered into the analysis. Both populations expressed a rather skeptical attitude when asked to

supply their reasons for selecting one sector to be more responsive than others.

As shown in Table 29b (on the next page) the more frequent answer was that the "system" had no interest in change and only did what suited "them". The secondary reason offered by Blacks was a belief in the effectiveness of community input while Whites emphasized a variety of reasons such as "the police have an image to maintain". These secondary reasons might well reflect the different strategies of minority and majority groups respectively.

Suggestions for improving the criminal justice system are shown in Table 30b (on the next page) where educational level of respondent is controlled for.

Table 21
How Treated When Involvement Occurred With the Criminal Justice System by Race and Sex

Treatment	Black		Non-Black		Total
	Male	Female	Male	Female	
Extremely well	11.4% (10)	19.0 (8)	24.4 (10)	37.5 (9)	19.0 (37)
Fairly well	34.1% (30)	21.4 (9)	56.1 (23)	37.5 (9)	36.4 (71)
Somewhat unfairly	22.7% (20)	23.8 (10)	14.6 (6)	20.8 (5)	21.0 (41)
Very unfairly	31.8% (28)	35.7 (15)	4.9 (2)	4.2 (1)	23.6 (46)
Totals	100.0% (88)	99.9 (42)	100.0 (41)	100.0 (24)	100.0 (195)

() - Represents number of people

Table 29b
Reasons for Choosing Aspect of the Criminal Justice System Interested in Responding to Community Requests for Change by Education* and Race

Reasons	Black		Non-Black		Total
	Low	High	Low	High	
No interest	38.7% (55)	36.4 (39)	40.8 (20)	32.5 (27)	37.0 (141)
Community input effective	15.5% (22)	23.4 (25)	12.2 (6)	14.5 (12)	17.1 (65)
Police are negative	9.1% (13)	7.5 (8)	4.0 (2)	0.0 (0)	6.0 (23)
Hard to change attitudes	7.0% (10)	6.5 (7)	2.0 (1)	4.8 (4)	5.8 (22)
Their job to respond	11.3% (16)	7.5 (8)	2.0 (1)	13.3 (11)	9.4 (36)
Respond to pressure and publicity	13.4% (19)	7.5 (8)	20.4 (10)	13.2 (11)	12.6 (48)
Other	4.9% (7)	11.2 (12)	18.4 (9)	21.7 (18)	12.1 (46)
Totals	99.9% (142)	100.0 (107)	99.8 (49)	100.0 (83)	100.0 (381)

() - Represents number of people. * Low education levels include all those who have not completed high school and all others are included in the High category.

Table 30b
Suggestions for Changes to the Criminal Justice System by Education* and Race

Suggestions	Black		Non-Black		Total
	Low	High	Low	High	
More public awareness	10.0% (19)	12.4 (16)	20.5 (8)	29.2 (19)	14.7 (62)
More equality in hiring	13.2% (25)	10.9 (14)	17.9 (7)	3.1 (2)	11.3 (48)
More professionalism better training	20.5% (39)	23.3 (30)	38.5 (15)	32.3 (21)	24.8 (105)
More ethical and younger people	12.6% (24)	13.2 (17)	7.7 (3)	10.8 (7)	12.1 (51)
More Blacks in system	38.9% (74)	34.9 (45)	7.7 (3)	13.8 (9)	31.0 (131)
Other	4.7% (9)	5.4 (7)	7.7 (3)	10.8 (7)	6.1 (26)
Totals	99.9% (190)	100.1 (129)	100.0 (39)	100.0 (65)	100.0 (423)

() - Represents number of people. * Low education levels include all those who have not completed high school and all others are included in the High category.

Interestingly, Blacks in both the low and high educational categories agreed on the primacy of employment of more Blacks throughout the "system". More professionalism and better training were also advanced as well as more equity in hiring and the hiring of younger and more ethical persons. Non-Blacks also exhibit a striking similarity across educational categories but their suggestions were decidedly different than the Blacks'. Non-Blacks emphasized more professionalism and better training of justice personnel, followed closely by greater public awareness and education. Blacks, perhaps for good historical reasons, were less confident that general change strategies such as these would generate the sensitivity and the empathy they perceive the criminal justice system to require.

Before dealing with a special research issue below, it may be useful here to close off this overview of the survey with three quotes from respondents (more can be found in the complete report in Appendix 3) which convey respectively the sense of discrimination perceived, the sensitivity to adverse effects and the need for more than just educational change:

"Well let me put it this way. If you are Black or Indian no matter what you say nobody will believe you. Always they

say Black is evil, that's why you see Blacks getting stiffer sentences on the same crime than Whites."

"Let me explain: stealing a car - White teenage boy from middle income family would get off with a warning whereas a Black teenage boy from a welfare family with no family backing or education would be expected to be a criminal and go to jail."

"I think there should be Black policemen as role models then Blacks will respect the police but as it is you are a "nigger" as far as the Halifax police are concerned and you got no rights as a citizen."

3.2 Rural/Urban Differences

In Part 2 on individual and focus group interviews it was noted that rural/urban differences were considered very important by knowledgeable respondents. Special analyses were undertaken to see if those alleged differences were also reflected in the public sample.

Table 31
Perceptions and Attitudes of Discrimination by Race and Location

Items	Urban Blacks	Urban Non-Blacks	Rural Blacks
Perceiving a Great Deal of Discrimination	46%	20	40
Perceiving Discrimination as Increasing	39%	15	30
Perceiving Discrimination as Decreasing	18%	45	30
Reporting Police Discrimination	74%	50	57
Reporting Court Discrimination	79%	37	60
Reporting Correctional Discrimination	65%	40	54
Reporting Unfair Treatment by Police	69%	20	42
Reporting their Experience with CJS as Negative	64%	28	27
Report Police as Disposed to Change	39%	54	28
Report Courts as Disposed to Change	32%	35	25
Report Correctional System as Disposed to Change	27%	35	22

In Table 31 urban Blacks are compared with both rural Blacks and urban non-Blacks on a variety of items tracking discrimination in the criminal justice system. The Table clearly establishes that urban Blacks were much more likely than the other two groupings to report discrimination. They were the most likely to report that a great deal of discrimination exists in Nova Scotian society (46 percent compared with 40 percent among rural Blacks and merely 20 percent of urban non-Blacks), and to perceive discrimination to be increasing (39 percent to 30 percent and 15 percent respectively). While a majority of both Black groupings reported

discrimination by all three sectors of the criminal justice system - police, courts and correctional system - the urban percentages were much higher; of course they were also much greater than the urban non-Blacks who nevertheless perceived much discrimination in these sectors. Urban Blacks were considerably more likely to regard their treatment by police to have been unfair and their experience with the criminal justice system as negative; for the latter, as indicated in

Table 31, the percentages were 64 percent, 27 percent and 28 percent respectively. Finally, in terms of perceiving the possibility of change within the sectors of the justice system, the findings revealed less dramatic differences though urban non-Blacks were somewhat more optimistic and rural Blacks more uncertain than urban Blacks.

When regression analyses were undertaken it turned out that the rural/urban differences did not come through as a powerful variable in its own right. On none of these analyses did location prove to be significant. What happened was that locational differences were shown to be "masking" the effects of other variables such as high education (relatively) and student status. So as regards the initial premise of this section, it can be said that location is important in terms of perceptions and attitudes largely because it is associated with differences in respondents' other attributes.

3.3 Multivariate Analyses

In order to determine which factors were most important for the patterns reported above, two kinds of multivariate analyses were done, namely discriminant analysis and regression analysis. The analyses could indicate not only which variables were most important but overall how powerful in making sense of the various attitudes and perceptions all factors were when taken together. The results were rather disappointing in some respects. All factors such as race, age, location, sex and so forth together accounted for only a small portion of the variance in responses to the different questions, never more than ten percent for any item such as "do the police/courts discriminate against Blacks". The major factor and indeed often the only significant factor in the different multivariate analyses was race of the respondent. The "best" explanation came in the case of discriminatory treatment by police where about ten percent of the variance was explained and the chief determinants shown to be, in order of importance: race of respondent, education of respondent and whether or not the respondent was employed. Perhaps the most appropriate conclusion to draw from these analyses is that for most variables such as age, sex, education and so forth there is less disagreement than agreement among the different categories of Blacks as regards their attitudes and perceptions of discrimination in the criminal justice system.

Part 4 The Sentencing Sub-project

4.1 Introduction

The survey on perceptions of discrimination indicated a belief on the part of respondents that discrimination exists in the criminal justice system in Nova Scotia not only with reference to police actions, but also in the courts themselves as regards sentencing. Blacks, particularly those who have been involved with the system, are inclined to state that they receive "more time for the same crime" than non-Blacks. There is a paucity of research, especially in Nova Scotia, concerning discrimination and sentencing and this study is, in part, an attempt to redress this situation. One researcher has investigated possible discrimination in the Halifax courts (Renner, 1981). Although focussing more on the economically disadvantaged, he suggested the possible existence of racial discrimination in sentencing. The aim of this study, then, is to determine if there is any evidence that Blacks receive harsher sentences than non-Blacks charged with the same offence before Halifax courts.

In this Part we will summarize the sentencing project dealing with sentencing for theft which is referred to in its entirety in Appendix 4. There, too, the reader will find Tables and charts which illustrate or describe different points raised here. As in the previous Part a few Tables will be included here and for the sake of clarity they will retain the Table number they have in the Appendix. Subsequent to the research summarized here another project was undertaken by Clairmont dealing with sentencing in assault cases. That separate report is reproduced here as Appendix 5 and some of its implications will be acknowledged in the conclusion to this section.

The sample of individual cases ($n = 177$) has been drawn from Black ($n = 51$) and non-Black ($n = 126$) males charged and convicted of theft under Section 294 [now 334] of the Canadian *Criminal Code*. The Black sub-sample exhibited higher levels of unemployment, lower levels of educational attainment, greater likelihood of low-rent socio-economic residence and a greater number of prior convictions. All these factors turned out to be quite important in accounting for the differences in severity of sentence between Blacks and non-Blacks.

Examination of the type of sentence received by race (Table 2) shows that none of the absolute discharges granted ($n = 14$) were obtained by Blacks. Non-Blacks also received a disproportionately higher number of conditional discharges than did Blacks. The latter on the other hand were significantly more likely to be incarcerated.

Both Blacks and non-Blacks in the "low" socio-economic status category were more likely to have been fined than those in the "high" category. This pattern certainly raises the question of their ability to pay a fine and of what percentage have been jailed subsequently for non-payment, creating a *de facto* "debtors prison". Among non-Blacks those of high socio-economic status were slightly more likely

Table 2
Type of Sentence by Race

	Black	Non-Black	Total
Absolute discharge	0.0% (0)	11.1 (14)	7.9 (14)
Conditional discharge	15.7% (8)	27.0 (34)	23.7 (42)
Suspended sentence	2.0% (1)	2.4 (3)	2.3 (4)
Fine	49.0% (25)	50.0 (63)	49.7 (88)
Incarceration	33.3% (17)	9.5 (12)	16.4 (29)
Total	100.0% (51)	100.0 (126)	100.0 (177)

() - Represents number of people.

Table 4
Type of Sentence by Age and Race

Sentence	Black			Non-Black		
	Less than 18 yrs.	18-35 years	Over 35 years	Less than 18 yrs.	18-35 years	Over 35 years
Absolute discharge	0.0% (0)	0.0 (0)	0.0 (0)	40.0 (2)	8.0 (7)	15.2 (5)
Conditional discharge	50.0% (1)	14.9 (7)	0.0 (0)	60.0 (3)	28.4 (25)	18.2 (6)
Suspended sentence	0.0% (0)	2.1 (1)	0.0 (0)	0.0 (0)	2.3 (2)	3.0 (1)
Fine	50.0% (1)	46.8 (22)	100.0 (2)	0.0 (0)	52.3 (46)	51.5 (17)
Incarceration	0.0% (0)	36.2 (17)	0.0 (0)	0.0 (0)	9.1 (8)	12.1 (4)
Total	100.0% (2)	100.0 (47)	100.0 (2)	100.0 (5)	100.1 (88)	100.0 (33)

() - Represents number of people.

Table 7
Type of Sentence by Number of Priors* and Race

Sentence	Black			Non-Black			Total
	None	Less than 3	Over 3	None	Less than 3	Over 3	
Absolute discharge	0.0% (0)	0.0 (0)	0.0 (0)	17.9 (14)	0.0 (0)	0.0 (0)	7.9 (14)
Conditional discharge	40.0% (8)	0.0 (0)	0.0 (0)	38.5 (30)	16.7 (4)	0.0 (0)	23.7 (42)
Suspended sentence	5.0% (1)	0.0 (0)	0.0 (0)	3.8 (3)	0.0 (0)	0.0 (0)	2.3 (4)
Fine	50.0% (10)	100.0 (8)	30.4 (7)	37.2 (29)	70.8 (17)	70.8 (17)	49.7 (88)
Incarceration	5.0% (1)	0.0 (0)	69.6 (16)	2.6 (2)	12.5 (3)	29.2 (7)	16.4 (29)
Total	100.0% (20)	100.0 (8)	100.0 (23)	100.0 (78)	100.0 (24)	100.0 (24)	100.0 (177)

() - Represents number of people.

* No more than six priors were entered on the data sheet.

to have received a discharge. Among Blacks it may be noted that virtually the entire sample and thus not surprisingly all the incarcerated were between 18 and 35 years of age (Table 4).

Analysis of the role played by prior convictions in the severity of sentencing is interesting (Table 7). Blacks with a lengthy criminal record were significantly more likely to be incarcerated than non-Blacks with a similar record. As would be expected, offenders with no prior convictions were most likely to receive a discharge, but non-Blacks more so than Blacks.

The presence of a pre-sentence report or community service order has been shown to be of value to the convicted insofar as it usually presents the offender in a positive light. Non-Blacks in this sample were more likely to have had the benefit of these reports, a factor which has been shown to have had a significant impact on the granting of discharges.

A boolean comparison matrix was generated to determine if discrimination was present in the granting of absolute discharges. No Blacks were found with profiles which exactly matched the profiles of those non-Blacks who had received absolute discharges. Six non-Blacks were discovered with exactly similar

profiles on the dozen variables examined so one can only wonder what factors prevented them from also obtaining such a lenient sentence. Construction of a second boolean matrix with a more restricted set of variables - basically the four most explicitly defensible, namely age, education, employment and priors -

disclosed six Blacks with similar profiles to those granted absolute discharge; a further 35 non-Blacks also matched these profiles. In the case of six Blacks a legally relevant variable such as a not-guilty plea always differentiated their cases, but in the case of the 35 non-Blacks other socio-economic type variables not legally relevant often seemed to differentiate those who got absolute discharges and those who did not.

The implication from the above analysis is that there are often other individuals, Black and non-Black, with attributes similar to those receiving lenient sentences who are themselves not so favoured. The factors associated with absolute discharge such as having counsel, being employed and having high educational attainment, have been shown elsewhere to be those where Blacks will be deprived. In other words we see here the possible role of adverse effects discrimination (Appendix 8).

A stepwise regression analysis was performed with severity of sentence as the dependent variable. It showed that prior conviction, educational attainment and age were the best predictors (in that order) of whether an individual would receive a lenient sentence (*i.e.*, a discharge) or a harsher sentence (*i.e.*, suspended sentence, fine or incarceration).

There are many limitations to this study. A key limitation is failure to take into account the embeddedness factor, that is whether or not the individual at time of sentence was also under sentence for other offences; embeddedness might partly explain why some persons were incarcerated for theft - basically because they were already being incarcerated for more serious convictions. Clearly the small size of the Black sample is another limitation since this fact prevents more detailed statistical work. Apart from sample size there is the problem of not being able to control for type and persona of judge, for court demeanor of the offender and the type of prior convictions. A further limitation was that only one type of offence, theft, was considered and it might not have been the one most likely to manifest sentence disparity on racial lines.

Despite all the above limitations some tentative conclusions can be drawn. Structural discrimination (adverse effects) entering the court system as it were from the larger society may be much more relevant than any direct discrimination effect. It may preclude Blacks from receiving discharges more frequently. There is also a clear suggestion that, with previous record controlled for, Blacks are more likely than non-Blacks to be incarcerated for the same crime. Policy-wise the analysis also suggests the strong need for a fine option program in Nova Scotia.

The accompanying report by Clairmont (Appendix 5) on sentencing in the case of assault convictions underlines the argument

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made above that racial discrimination effects are largely indirect and have to do more with socio-economic status and capacity to command legal resources. At the same time that report also points to the potential significance of cultural factors and advocacy within the court system.

Part 5

Overview and Summary

This study began with a set of assumptions or hypotheses concerning Blacks and the criminal justice system in Nova Scotia. The four hypotheses have all been confirmed:

- There is a high level of hostility to and distrust of the criminal justice system by Blacks in Nova Scotia. Blacks clearly perceive themselves as a group subject to prejudice and discrimination. Black citizens particularly emphasize police discrimination while Black (and non-Black) lawyers point to the institutional racism of the court system. Blacks generally regard the police as treating them unfairly and while non-Blacks regard their involvement with the criminal justice system as having been positive, Blacks see theirs as having been a negative experience.
- Clearly the perception and actual experience of discrimination and unequal treatment varies by racial group. Blacks are much more likely to report discrimination, to have a different pattern of experience and to advocate different strategies for change. Differences among Blacks have been demonstrated as contingent upon location (rural versus urban), age and educational attainment, but perhaps more surprising is the high level of consensus about the pervasive sense of discrimination. Indeed non-Blacks themselves appear to recognize the extant prejudice and discrimination that Blacks must contend with not only in the areas of housing and employment but also in their interaction with police and to a lesser extent the courts.
- From their initial involvement as slaves in Nova Scotia through a long period of Jim Crow practice to the more subtle racism still extant in contemporary society, the Black population has been obstructed from sharing fully and participating fully in Nova Scotian society. The implications are as hypothesized, namely lower socio-economic well-being, whether it be employment, income, education and so forth. These factors in conjunction with racism are clearly associated with perceptions and reality of disadvantage when Blacks become involved in the criminal justice system.
- While the limited sub-project undertaken for this study on sentencing practices can hardly be seen as definitive, it does support the hypotheses that Blacks receive harsher sentences for the same offence than non-Blacks. At the surface level Blacks are not getting the absolute discharges nor indeed the discharges of any kind at a level comparable to non-Blacks. While it may well be that education, age, employment and other social/legal characteristics are more important directly than race, clearly a strong case can be made for

adverse effects discrimination since the evidence is that employment, income and education are areas which influence sentencing, and where both the legacy of past racism and the implications of current racism effect discriminatory outcomes for Blacks.

This study has provided a context for assessment of current issues of discrimination in the criminal justice system. The historical experiences of slavery, broken settlement promises, Jim Crow social practices, economic and social marginality have led to the current unfavorable socio-economic conditions and vulnerability that permit an informal racism and cause Blacks to be disadvantaged even while the justice system may be seen as neutral and disinterested. Yet for Blacks and indeed for many non-Blacks the justice system is not perceived as operating in such a fashion. And those Blacks who are most knowledgeable about the justice system are as adamant as any others that justice is not blind to skin colour in Nova Scotia.

There is little point reiterating the summary points associated with the three major parts of this report. But it is important to repeat that each reinforces the other. Prejudice and discrimination is perceived to exist by the population at large. Its existence is confirmed by those most experienced with all aspects of the justice system. The sentencing patterns clearly indicate, whatever the ultimate reasons may be, that for the same type of offence Blacks receive more severe sentences than non-Blacks.

This consistency across samples and across both the attitudinal and behavioral dimension is also sustained by other information gathered, such as the attitudes towards the Charter of Rights and Freedoms made available through the Centre of Criminology at the University of Toronto. These data clearly indicate that police in Canada are not especially supportive of minority subcultural differences nor of efforts to further advance equal rights in Canada (Appendix 6). Without singling out the police it can be noted that these attitudes and experiences mirror the feelings that Blacks have vis-à-vis the justice system.

It seems clear that despite the conditions noted above the Government has not been especially proactive in effecting a more just and fair criminal justice system. As noted in Appendix 7 neither the Ombudsman's Office, the Human Rights Commission nor the Nova Scotia Police Commission have been very active in monitoring disadvantage and unfairness in the criminal justice system or in effecting a greater awareness there of minority rights. The Ombudsman's Office reported that no Black complaints against police, courts or corrections have been dealt with in recent years and was uncertain as to the relevance if any for their jurisdiction. The Nova Scotia Police Commission had heard no citizen complaints (*i.e.*, the fourth stage of the appeal process) since its inception and

while some investigations have suggested aspects of racism, it has not engaged in any significant proactive work with respect to racism, multiculturalism or civil liberties. The situation is so bad that in response to the statement "there is little recognition that police require training in dealing with minority communities", the director of the Atlantic Police Academy recently noted, "Unfortunately I agree with this statement. The Academy's multiculturalism course always has vacant positions while many other programs have waiting lists". The Human Rights Commission had dealt with no formal complaints regarding visible minorities and the justice system and also was uncertain whether it would have any jurisdiction along these lines. Certainly its resources have shrunk in recent years and it has been unable to take an aggressive, proactive position concerning awareness of rights or subcultural variations respecting those rights.

Clearly the time has come for dramatic change. Both Black and non-Black respondents had numerous suggestions for change - change at the level of power and participation and change at the level of training and education throughout the criminal justice system. Greater proactivity by government and agencies related to the justice system is seen as basic to meaningful change. The generally negative perceptions and experiences of the Black population is projected on all levels of the society. The negative effects of historical and current prejudice and discrimination continue to manifest themselves throughout the criminal justice system directly and indirectly via educational and employment implications. The desire for and expectation of change is strong in the Black community of Nova Scotia.



Part 6 Implications and Recommendations

6.1 Introduction

It was the purpose of this study to provide background data and analyses on the existence and specific operation of prejudice and discrimination in the criminal justice system of Nova Scotia. The Donald Marshall, Jr. prosecution in 1971 has raised basic questions concerning the significance of these factors in that miscarriage of justice and in the everyday functioning of all segments of the criminal justice system now. This study has focussed on the experience and attitudes of Nova Scotian Blacks vis-à-vis the criminal justice system. In addition to examining the significance of prejudice and discrimination from the referent point of Blacks today, the study has been mandated to make recommendations which may be useful in confronting both the perception and the reality of racial bias and in improving the functioning of the criminal justice system in its treatment of Black individuals.

Examination of the history and experiences of Blacks in Nova Scotia has clearly established that Blacks have been the victims of a long history of neglect, prejudice and discrimination. Data generated in this study provide strong evidence that racist attitudes and practices are significant aspects of contemporary Nova Scotian society, and that they play an important role in the treatment of Blacks in a variety of settings including the educational system, social and other government services, housing and employment opportunities, and throughout the criminal justice system. While progressive changes have occurred in some respects such as in legislation, in the creation of monitoring agencies (*e.g.*, the Nova Scotia Police Commission, the Human Rights Commission, the Ombudsman's Office), in public attitudes and in organizational developments within the Black community itself (*e.g.*, the Black United Front), racial bias continues to flourish though more tacitly and often in the guise of adverse and structural effects. Despite all the above developments racial bias still needs to be effectively confronted. It seems clear and will be evident in our recommendations below - which draw as well upon the experiences of other provinces and societies and upon the accumulation of relevant research findings - that much more proactive and positive action is required of government and of all sectors of the criminal justice system if the death-knell of racism is to be sounded in our day.

It has already been noted at length (see Part 5) that the hypotheses and assumptions which have guided this project's research thrusts have been strongly supported by data. Blacks and even non-Blacks consider prejudice and discrimination against Blacks to be pervasive in Nova Scotian society. And not only does this pertain to the criminal justice system as well, but in certain respects, notably in dealings with the police, it is seen as more seriously prevalent there.

Behavioural data including personal experiences and sentencing patterns are of course difficult to research - especially so given the time frame and resources available in this case - but at the very least they have been shown to be consistent with the data on attitudes and perceptions.

In "placing" the recommendations below, several contexts and issues should be noted. As regards the former, one must always bear in mind that Blacks have long carried the burden of oppression in Nova Scotia (slavery, Jim Crow practices, marginality) and continue to experience significant socio-economic disadvantage. The Black population also is a relatively small proportion of the Nova Scotian population, probably no more than three percent, and concentrated in and around the Halifax/Dartmouth metropolitan area. The third important contextual factor for our purposes is the rather limited, reactive approach to prejudice and discrimination on the part of government departments and agencies and within the criminal justice system. Concerning specific issues it is important to note first of all that approaches to change often differ on the emphasis they accord to technical-liberal strategies (education, public awareness, et cetera) or to power strategies (new laws, putting Blacks in positions of influence, et cetera). It will be argued here that the small Black population coupled with the seriousness of the racism problem preempts choice; both strategies of change have to be employed to some extent. A second major issue concerns the emphasis given to the different types of discrimination, that is whether individual differential treatment or structural/adverse effects are highlighted. While most of the recommendations proffered focus upon individual differential treatment (and ways to confront it) attention will be drawn to the need to develop legal and other strategies to deal with structural/adverse effects more directly. Finally a significant issue concerns the extent to which changes and reforms must also be programmed (broken down into specific objectives and given a time frame) and aggressively monitored. Certainly our study has underlined the need for proactivity and checking. In the context of the Royal Commission recommendations some consideration should be given to what is sometimes referred to as a corporate action plan (a formal mechanism for the evaluation of the progress of implementation as well as the success of programs in achieving their stated goals).

6.2 The Criminal Justice System: Policing

The police officer is usually the first contact of the citizen with the criminal justice system. It is the police who question, apprehend, summon the offender to appear in court, prepare the court officials, register the charge, and testify against the alleged offender in court. He or she is a key figure in the total criminal justice proceedings. Indeed one could say that not only is the police officer the "point person" (like a workplace is the point of production) but that, given the presumption of administrative regularity which operates in most social systems, what happens at this level may be unlikely to be profoundly "undone" by subsequent officials. At the same time, the police officer is generally among the least well trained of all officials of the criminal justice system. This fact has been documented by many reports, including a recent report by the University of Toronto Centre of Criminology (1987). This study, focussing on the acceptance of the Charter of Rights and Freedoms in samples of police, lawyers, legislators, and ordinary citizens, found that in general police officers reflected lower levels of education and were more likely than most others to express disapproval of rights guaranteed by the Charter, especially rights and freedoms pertinent to race and multiculturalism. For example, police officers more frequently than others felt that "we have gone too far in pushing equal rights" and they were less likely than others to state that "Equal rights should be more strongly entrenched".

The hostility of many Blacks to the police, and apparently of many police towards Blacks, is well documented. Hill (1985) referred to this phenomenon in his review of "Policing in a Multicultural Society" (mentioned in the Introduction to this Report). Hill noted that while police frequently proclaim that they are committed to non-discriminatory and humane law enforcement and that their motives are often misconstrued and their efforts unappreciated, racial and cultural groups consistently allege insensitive and even discriminatory treatment by an overwhelmingly White-dominated police force.

These attitudes spring from a variety of factors. First it must be recognized and appreciated that police work is difficult and stressful. They too are often treated with insensitivity and hostility. On occasion police have been assaulted both verbally and physically. And as Menninger stated some years ago, we expect far too much from police officers. The police officer, Menninger (1968) observed:

"is expected to do a superman's job. He is expected to be more brave, more upright, more self-controlled ...more resistant to bribes, more unruffled by humiliation and frustration than all other citizens. That is a tremendous set of expectations. And perhaps it reflects the fact that the community expects the police to handle problems which

should be the responsibility of other agencies in the community. In an atmosphere of unemployment, fear and poverty, as one British police officer noted, "we are expected to 'keep the lid on the dustbin'."

The police however are not trained to keep the lid on the dustbin. They are not social workers, psychologists, or other social or mental health workers. Neither are they equipped to provide employment for the jobless, decent housing for the homeless or food for the hungry. And with some exceptions neither are they trained for dealing with the sophisticated methods of computer and other "white collar" crimes. Moreover, while the structure and training of a police force bears a strong resemblance to that of the military, and though some officers have been accused of behaving in this manner, they are not "an army of occupation."

As Hill (1985) wrote, quoting Lord Scarman following the Brixton riots in England:

"the police cannot rest on the argument that since they are a cross section of society, some officers are bound to be racially prejudiced, and do nothing to control and minimize the matter ...the standards we apply to the police must be higher than the norms of behaviour prevalent in the society as a whole."

Responses to questions in this study clearly indicate that many individuals, both Blacks and non-Black, do not believe that police officers in this province operate on the basis of higher standards of behaviour than the norms of society as a whole. As reported earlier, in many instances the police are perceived as treating Blacks more harshly and less fairly than non-Blacks. Neither is there a perception among our various samples of respondents that police clearly recognize the fact that effective policing depends largely on a cooperative and supportive relationship with the local community. There is among the respondents themselves a desire to construct such a relationship. It appears that modern policing has moved away from the concepts of Sir Robert Peel - "the police as the public and the public as the police".

The results of this and other similar studies do not clearly answer the question of whether or not the behaviour of biased police officers is based on personal prejudice and hostility against Blacks, or whether that behaviour stems from a more pervasive negative atmosphere in the institutional ethos and structure of the law enforcement organization itself. A para-military orientation and training model is not likely to stress prevention of crime, but rather, enforcement, apprehension and punishment. It is likely to emphasize

distance between the police and the citizen and to suspect other subcultures and social styles. The attainment of a police force which encourages social perspective and can establish rapport with minority communities would appear to require the modification, if not elimination, of the para-military style, the development of linkages with minority associations, and the encouragement of minority persons to become police officers. The gains will not only be a greater reality of and perception of fairness on the part of minorities but on the police side less suspicion, hostility and non-cooperation encountered in their attempts to investigate crimes. Experience, particularly in Canadian metropolitan areas such as Toronto, Vancouver, Ottawa, and Edmonton, suggests that cooperation with police organizations is significantly increased when members of ethnic and racial groups are employed by police departments.

It is clear that Blacks, especially those in the Halifax/Dartmouth, area have poor relationships with the police and regard their treatment by police to be unfair. Harassment is a common complaint. The number of Black police officers in the two cities is less than proportional to the Black proportion of the total population; moreover, these Black officers are few and are with one exception all at the constable level despite their veteran status. There is little evidence of any special training in human rights, minority relations or multiculturalism beyond that dispensed in a rather small dosage in cadet training at the Atlantic Police Academy. It is known that multicultural and human rights courses at the Academy targeted for those beyond the cadet level usually are under-enrolled whereas courses for techniques, investigation and so forth are quickly booked. There appear to be no formal linkages between police and the Black community. Given our earlier remarks concerning the police as "point persons" and the presumption of administrative regularity it is imperative that the above conditions be changed.

1. The Nova Scotia Police Commission in cooperation with the Nova Scotia Human Rights Commission, the Black United Front, and other appropriate organizations must take the lead in initiating a series of courses or programs for members of the various police forces of the province; these must aim to provide understanding and perspective of racial and cultural variation in the province and especially the significance of these factors for the criminal justice system. While local Police Commissions should also be encouraged, particularly in the urban areas, to take a more active interest in such issues, the provincial Commission should clearly be providing leadership in this regard.

2. Police forces must be instructed regarding provisions of the *Canadian Charter of Rights and Freedoms*, the *Nova Scotia Human Rights Act*, and other relevant material involving the fundamental rights of citizens and the necessity of observing, respecting and protecting those rights.

3. The organizational and management structure of the police forces in the province must be examined with the view to improving the quality of policing in the province. Police Commissions and administrative officials must exert more control over any negative treatment of Blacks and other visible minority groups by police officers.

4. The importance of a structure designed to investigate and recommend discipline of police officers charged with harassing, assaulting and otherwise mistreating racial minorities is essential to the confidence of citizens in their police. Immediate attention should be given to studying the roles, structures, and activities of Civilian Complaint Bureaus in other cities, *e.g.* Toronto, Ottawa, et cetera. Ludwig (1983) among others, has stressed the importance of independent civilian review bodies. The newly modified provincial *Police Act* and the new Police Review Board should be closely scrutinized to ensure that they fully and effectively deal with police prejudice and discrimination.

5. (a) It is understood that an Ethnic and Race Relations Unit is being established by police in Halifax to deal quickly with incipient conflicts among different racial and ethnic groups and between such groups and the police. It is hoped that this plan will be realized. Linkages such as these should be encouraged and can play a major role both in reducing and controlling racial and ethnic conflict and in developing greater understanding between the police and minority group members.

(b) Consideration should be given to developing proactive plans and linkages such as mentioned immediately above throughout the province.

6. Police officers must be assigned to visit public schools, minority organizations and so forth to become acquainted with the children, staff persons and local communities in order to become more knowledgeable and understanding of the problems of local communities. This initiative can be of immense value in developing more positive police-community relations and effective policing practices. It is important that programs such as these which invite contact and participation of the citizens with police and police policy

be positively valued by the police organizations and not, as is often the case where they do exist, be defined as marginal to the policing enterprise.

7. As suggested by Hill (1985), "name calling" and other forms of offensive behaviours should be vigorously stamped out by top police officials. While police may innocently utilize racial and other slurs, the implications are negative for the minority group member and police/citizen relations. Officers violating such policy should be disciplined and repeated violations should result in more severe sanctions, including suspensions and in extreme forms, dismissals.

8. Police Commissions and police management should carefully review recruitment and promotional practices with a view to creating more opportunities for Blacks and other visible minority groups and women. Affirmative action programs rather than quotas might be preferable given the small population of visible minorities in Nova Scotia. The often heard police argument that well-educated or otherwise desirable minority persons have plentiful opportunities elsewhere seems specious.

9. The Atlantic Police Academy and other police training schools should be encouraged to expand their programs on human rights and race and ethnic relations and to foster imaginative programs of similar content beyond the cadet level. In view of the fact that existing in-service programs of this nature do not get offered because of low enrollment it may be necessary for some such requirement to be established by provincial authorities.

10. Steps should be taken to ensure that data can be monitored with respect to issues such as harassment and other complaints by race and ethnic status. At present these data appear not to be available through police departments where virtually all such complaints first must go. Moreover, bodies such as the Ombudsman and the Human Rights Commission are uncertain as to the appropriateness of their involvement in such matters.

6.3 The Courts

It was noted earlier that while both Blacks and non-Blacks in our survey considered there to be less prejudice and discrimination in the courts than among the police, there were still large numbers who considered bias there to be a problem. Further, the individual and focus group interviews which included both Black and White lawyers as well as others experienced in the courts revealed quite sharp criticism of the courts with respect to insensitivity to Blacks, the use of racist language in everyday activity, and the extent to which Black defendants secured appropriate representation and considered themselves to be in a hostile White world.

Clearly the personnel of the criminal justice system are basically different than most of the defendants who are caught up in the system. For example, Hogarth (1979) points out that judges, lawyers, and other court personnel tend to come from middle or upper middle class backgrounds and appear to have little understanding of the circumstances of many of their clients, particularly Blacks. This situation leads to serious misjudgments of the needs of the individual and of the community the system is attempting to protect. For example, consider the nature of secondary or unintended consequences of judicial decisions when a youth, Black or non-Black, is sentenced to prison. It is not merely a simple act of punishing the individual for crimes. The consequences to his or her future employment chances, to self-esteem, and to the community as a whole may be extremely negative.

Offenders are products of the economic, social, political and cultural environments in which they grow up. At least to some extent, society bears some responsibility for the actions of its products. Apparently the courts do not yet accept this important fact although there appears to be a move in recent years to consider structural or adverse effects which produce bias in a seemingly neutral court process (see Appendix 8). Considerations of demeanor in court, dress, and expressions of regret are likely to be affected by the different class and subcultural backgrounds of court officials (including juries) and defendants. Special tempering of sentence contingent upon schooling and employment may in effect create bias since some groups may be discriminated against in these extra-court considerations. Certainly the Blacks, especially the lawyers, seem to think so.

The atmosphere of the court system is generally forbidding and frightening to the uninitiated individual. The procedures are alien and confusing even to many educated people. Socially disadvantaged Blacks can only find the situation more alien since as they look around they see a White judge, White jury, and White officials of all sorts. It is not surprising that the court system is perceived by so many Blacks as punitive, arbitrary and unfair. The often negative

atmosphere of some courts elicited severe criticism by some respondents, particularly when Blacks were defendants. As indicated above, the courts, with their immense power to punish an individual, must be seen to be completely fair. Presumably Section 15 of the Charter guarantees that every individual has the right to equal treatment before and under the law. Unfortunately many of the respondents in this study do not believe that a fair trial for Blacks is possible under present conditions in some courts. One individual stated her perception in this manner: "White judge, White jury and Black victim."

Black, D. (1979) defines "Law" as a particular form of social control. Law, according to Black, is both a quantitative and a qualitative variable. By "quantitative" he refers to the number of formal regulations and of sanctions. Qualitative law refers to style, varying in respect to objectives such as penal, therapeutic, conciliatory, et cetera. In his research on social class, subculture and the court system Black clearly indicated that acts committed by the more conventional or mainstream individuals were held to be less serious than acts committed by less conventional individuals even when different types of offences were studied, such as stabbings and thefts. The same kind of "law" held when acts committed against marginalized individuals were judged to be less serious than offences committed against "mainstream" individuals. In other words, the social stratification (rank) of the offender was, with other variables held constant, a major factor in the treatment of the offender by the courts.

The sub-study on sentencing, while limited in scope, does provide some interesting insight into sentencing practices, at least in Halifax courts. As reported, no Blacks received absolute discharges and Blacks were more likely to be fined or incarcerated than non-Blacks convicted of the same offence and having similar numbers of prior convictions. The study findings were consistent with the only other social science study of sentencing in the Halifax area in recent years (Renner, 1981). Even if there is some acceptable explanation for much of this pattern (as suggested in the companion piece to this monograph, Appendix 5, the assault study), the old axiom that "Justice must not only be done, but must be seen to be done" seems appropriate here.

There is some evidence then and certainly a wide perception that social class and race does affect how law is used as an instrument of social control (Black, 1979). Surprisingly little research has been done on this issue in Canada. Less surprisingly, little effort apparently is exercised in Nova Scotia by the court authorities or Attorney General's Department to even monitor the impact of social class and racial background. Nor is much done to effect an

* The Alternate Penalty Act, S.N.S. 1989, c. 2
was passed May 16, 1989

atmosphere where the disadvantaged defendant will not be daunted into selecting unwise options. The province still apparently does not have a fine option program which means that such sentences punish the poor more severely than the affluent*. Blacks in Halifax courts for comparable offences of theft are more likely to receive fines than non-Blacks who in turn are more likely to obtain some form of discharge; the absence of a fine option program further penalizes them.

These patterns being discussed are clearly not unique to Nova Scotia. On the matter of fines Jobson and Adkins (1987) have pointed out that in Ontario, 25 percent of admissions to jail result from unpaid fines. That percentage rose to 64 percent in the northern part of the province where Native peoples are more frequently involved. There are signs of change. For example, Weiler (1980) points out that the Law Reform Commission was established to recommend new legal practices and a new *Criminal Code* for Canada. In addition the Criminal Law Review, established in 1979, intends to encourage Canadians to rethink the basic purposes and procedures of the criminal justice system. The Criminal Law Review also is examining the foundation and future of the correctional system. A recent second review by the Canadian Sentencing Commission has made far-reaching recommendations on sentencing and parole. The House of Commons Standing Committee on Justice also has recently completed a major review which includes public hearings in such areas as sentencing, conditional release, and correctional concerns involving services and programs. The importance of these steps, Weiler notes, is the "increasing trend toward employing legal means to deal with social problems." This trend is of major concern to many practitioners in both the legal and social development fields, *i.e.* social services, education, employment, housing, et cetera.

In advancing the recommendations below we recall the point established in the introduction on what to focus upon or highlight. Recommendations suggested by respondents with respect to the court system fell into two broad categories: most non-Black respondents suggested an educational approach, *i.e.* more training, sabbaticals, sensitivity in race relations, et cetera; most Black respondents wanted more power level changes, *i.e.* new policies, more fairness, more Black lawyers, judges, and other court officials; and they wanted the court procedures to be more understandable and less forbidding. Whatever the focus, they wanted reform so that the courts are operated in the interest of all people, offender and ordinary citizen alike.

11. The Nova Scotia and Canadian Judicial Councils must organize in-service education courses for judges in order to increase their understanding of the changing multicultural and multiracial reality of Nova Scotian society. Resources for education are available through the Nova Scotia Human Rights Commission, the Dalhousie Law School, the Atlantic Institute of Criminology and university departments. Consultation can be obtained from several voluntary and public sources in other provinces.

12. Lawyers working particularly but not exclusively in the metropolitan area must assume responsibility for a similar type of education. Multicultural and multiracial education can be conveyed through various types of seminars, workshops, and other educational methods. Again, leadership and other resources are available for this purpose.

13. Judges should either be given periodic, extended leaves of absences (sabbaticals) or special in-service training along the lines recently proposed by the Canadian Judicial Council in order to, among other things, develop a "feeling" and "awareness" of the stresses and frustration that Blacks and many non-Blacks (especially Native people) experience when brought before the confusing atmosphere and practices of the courts. A simplification of the language and procedures of court practices could be of great value in improving the effectiveness and validity of justice in the province.

14. There is a critical lack of Black judges, and only a few Black lawyers serving the courts of the province. The appointment of Black judges, Crown attorneys and other court workers is strongly recommended.

15. The Provincial Government, presumably through the Attorney General's Department, must assume responsibility for designing a more creative and innovative approach to insuring increased fairness in the treatment of Blacks and other offenders involved in the criminal justice system. This will, among other things, require more flexibility in policies (*e.g.*, a fine option program) and a more humane approach to the needs of offenders and the community. It is unlikely that fair and equal treatment of Blacks and other minorities can be dispensed when some court personnel demonstrate a lack of respect for the dignity of individuals charged with crimes. This situation of informal racial slighting is not one which can be easily dealt with by legislation or by regulations. However it cannot be left to continue merely as "business as usual". Informal expressions of racist attitudes inside or in the immediate vicinity of the courts were

often reported by informants. These cannot be allowed to continue. A recognition of the fact that a problem exists, at least in some courts, should prod court officials to clean up their act. An official court worker, functioning perhaps as a liaison and available as a complaint-taker, should be appointed and assigned to courts in those areas where visible minorities are in significant numbers. In particular, annual reports could be submitted by court workers to the Judicial Council and government officials.

16. The Provincial Government must carefully consider the appointment of an ombudsman charged with monitoring court proceedings in which defendants feel that they have been mistreated by lawyers, judges, clerks or other workers employed by the system. This practice might initially be established as a pilot project in one or more courts in order to test its utility and effectiveness.

17. The courts must move to eliminate the modern equivalent of the old English "Debtors Prisons" in which those who cannot pay fines are sent to prison. This practice simply condemns many Blacks to prison terms, while the more affluent go free - hardly conforming to the constitutional concept of "equality before and under the law" (Section 15, *Canadian Charter of Rights and Freedoms*).

18. The importance of the pre-sentence report is highlighted in this study, and particularly in the studies on disparity in sentencing (Appendices 4 and 5). The availability of the report would provide the background information required for taking into consideration the history and background which might help the judge understand the circumstances surrounding the offence. The sentencing study indicated that the effects of pre-sentence reports were generally positive. Pre-sentence reports should be required prior to sentencing of (1) first offenders and (2) Blacks, Native peoples and other visible minorities.

In view of the present atmosphere and procedures of the courts and the general lack of public awareness of court procedures, it seems quite logical that court workers should be employed to assist the individual charged with a crime to understand what is happening in the court. It has been stated by at least a few of our respondents, that many Blacks and Native peoples, having little awareness of court proceedings, and even more disturbing, a sense of the futility of contesting charges, simply plead guilty in order to "get the matter over with and get out as quickly as possible". This attitude is based on a lack of confidence in the quality of justice accorded by the

system. The court worker system may be of considerable value in changing this negative perception (See #14 above).

Courts serving considerable numbers of visible minorities should employ court workers with knowledge and understanding of the history, backgrounds and culture of Blacks and other visible minorities in order to help individuals from these groups fully grasp and receive maximum protection of their rights during court room appearances. Such court workers should be given a high level of independence and, except in matters related to decorum and necessary procedures, should not be under the control of the court. Such innovation would supplement not substitute for the provision of defendant legal assistance and would underscore the impartiality of the court.

19. It is clear from our study as well as others that legal representation makes a difference in sentencing. Blacks and other disadvantaged persons are considerably dependent upon legal aid but the latter's resources have become more limited in recent years in relation to the problem at hand. Legal aid funding must be improved. Indeed it might be hoped that this agency could become more proactive on issues discussed in this report rather than overburdened and harried as now appears to be the case. For Blacks to have legal recourse at all usually means to have legal aid, so the shoring up of that service is fundamental.

20. The importance of appropriate legal resources and education cannot be overemphasized. Reflections and analyses on the war on poverty in both Canada and the United States have underlined the significance of legal innovations along these lines; more than virtually any other program, those programs bringing legal resources within reach of the poor had an impact on the latter's conditions of life. Clearly government, the Barristers' Society and the Faculty of Law (Dalhousie) all can play a role here. For example the Barristers' Society in conjunction with the Law School could identify, recruit and support qualified visible minority students aspiring to legal careers.

Only a relatively small number of the survey sample have had any direct experience or even indirect familiarity with correctional institutions. The high level of uncertainty in response to questions relating to the correctional system is probably based on this fact as well as the reality that the system operates in a highly restricted and closed manner. Leaders at all levels of the correctional system have traditionally held that security requires that the public have carefully restricted access, therefore the general public is not aware of what occurs in closed institutions. The doors are locked, "not merely to keep prisoners in, but also to keep the public out". This is, in all probability, the major reason why respondents, except the small number of ex-inmates interviewed in the focus groups, lacked adequate knowledge to make informed judgments regarding the treatment of Blacks in correctional institutions. It appears that only a crisis, such as an escape or a riot by prisoners can, at least to some extent, open the doors of correctional institutions to public scrutiny.

It is common knowledge, and confirmed by this study, that correctional institutions are populated primarily by the young, poor, uneducated and racial minorities in Canada as in the United States and other countries. It appears that a similar situation exists in Nova Scotia. Thus far, it appears that Nova Scotia society, including its Government, is uninterested in facing the problem of unequal treatment of its incarcerated and vulnerable minorities, including its Black population.

While there is considerable discussion regarding the need for rehabilitation of offenders and still some support for programs whereby inmates could be helped to return to positive and constructive participation in mainstream society, the fact is, however, that many inmates have never enjoyed the opportunity of developing an alternative, more positive lifestyle. Most have been victims of poverty, neglect and mistreatment inside as well as outside correctional institutions. Most prison programs, according to respondents and other observers, are focussed on security and punishment requirements, not on rehabilitation.

Most Black respondents who had been incarcerated had "served time" in only one provincial correctional institution. Nevertheless these men expressed a great deal of hostility but their anger was not, as expected, directed primarily against the police. It was directed against the courts and the correctional system. Complaints were directed against a system in which they felt victimized because of colour.

The public needs greater knowledge and understanding of the negative effects of incarceration. These effects appear to be even more damaging when the inmate feels that he or she was treated unfairly because of racial prejudice.

The failure of correctional institutions to rehabilitate inmates is well known and has no need to be repeated here. This recognition has been responsible for some positive changes such as the establishment of half-way houses, minimal security institutions including "prisons without walls", better training of correctional staff, restitution to victims of crimes, et cetera. It appears however, that Nova Scotia, for various reasons, has not developed a broad spectrum of alternatives to imprisonment. Nor has it been in the vanguard of progressive change in correctional institutions under its jurisdiction. Alternatives have been initiated and found to be useful in other countries, notably Sweden, Norway, and other European countries. These alternatives should be studied for possible adaptation to conditions in Nova Scotia. The major focus should be the rehabilitation of inmates and returning them to freedom with the knowledge and skills necessary for constructive living in the community. This emphasis, if reawakened, will require major changes in the present philosophy, administration and operation of Nova Scotia correctional systems.

The major changes needed, according to ex-inmate focus group respondents, are in the attitudes and behaviours of guards and other correctional authorities and secondarily, though important, in the actual programs and resources. Black inmates, it was charged, are rarely given opportunities for desirable jobs in the institution. Nor have correctional officers demonstrated interest in supporting the religious, educational and cultural interest of Black inmates. This attitude is not helpful in dealing with the very real harshness of prison life.

The dominance of an ideology of punishment as a deterrent to deviant behaviour should be carefully examined by the correctional system of Nova Scotia. The goal should be to find the appropriate treatment for each offender. Appropriate treatment should be based on the needs of the individual as related to past experiences and the requirements of adapting to life in a community setting.

21. Correctional authorities should immediately initiate a program to identify, recruit and employ more Blacks in various professional and non-professional positions within the correctional institutions. Rehabilitation requires that inmates learn the skills of community living from people who understand and can teach those necessary skills.

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- 22.** Where considerable numbers of Blacks are incarcerated, educational and cultural programs should be organized to serve the needs of Blacks, allowing them to become aware of and develop an appreciation of their own history, backgrounds and cultures.
- 23.** Because of the often destructive environments in correctional settings, Black youth in particular should be considered for alternative methods of rehabilitation such as paying restitution for physical damages to property, community service and so on.
- 24.** Correctional institutions should immediately initiate ongoing educational and training programs designed to provide officers with awareness, knowledge and understanding of the racial and cultural backgrounds of Black inmates. This training should also include a strong emphasis on the rights of individuals as guaranteed in the Charter of Rights and Freedoms, subject only to the limitations of security and safety of the person.
- 25.** Correctional management should clearly indicate to guards and other employees that discrimination against Blacks and other visible minorities (including the use of racist language) will not be tolerated, and that a violation of this requirement will result in serious consequences, including the possible loss of employment.
- 26.** Correctional authorities should examine and change unnecessary rules and regulations which unduly restrict public awareness and knowledge of institutional policies and practices. The institution represents the public and the public has a right to know how its tax dollars are spent and with what results.
- 27.** Service agencies such as the John Howard Society should, with government financial support, consider hiring special liaison workers for Blacks and Native persons who are so disproportionately represented in correctional institutions. In this light it is with much concern that we notice the demise of one such experimental program (for lack of funding) and the termination of another program which assisted Black ex-inmates in finding employment. Both these programs are exactly what needs to be in place. The Commission should call attention to this situation and urge its rectification.

6.5 Monitoring

A major issue that has come out of our research concerns the extent to which there is adequate monitoring and assessment of the situation as it currently is supposed to function. Racism and social disadvantage can create much unfairness and a host of other justice problems. Why is there not more monitoring by the criminal justice system itself? Why is there not more of a proactive thrust? The Nova Scotia Police Commission's limited endeavours in regards to policing and racism, human rights, et cetera have been matched elsewhere in the Attorney General's Department by a comparable inattention to research and monitoring on courts and corrections. Beyond the justice system *per se* there are agencies such as the provincial Ombudsman's Office and the Human Rights Commission which could have a more active role but apparently have stuck with a very limited interpretation of their mandate as regards issues relating to the provision of services or of employment in the criminal justice system. Surely someone should assume more responsibility and a more activist stance!

28. More monitoring and assessment, and in general a more proactive orientation should be undertaken by the Attorney General's Department into issues of how disadvantaged visible minorities and other categories of persons are treated throughout the criminal justice system.

29. Serious consideration should be given to the role that agencies such as the Human Rights Commission and the Ombudsman have in relation to complaints and shortfalls in the criminal justice system as regards employment and the provision of services in an appropriate manner. The concern is not so much one of who precisely attends to these considerations but rather one of ensuring that they do not fall between any organization's mandate as it were to the detriment of Blacks and other special groupings.

6.6 Beyond the Criminal Justice System

Here we focus upon the general community context in which the criminal justice system - the police, the courts, and the correctional system - operates. As indicated earlier in this report, racist attitudes and behaviour do not operate in a vacuum. They represent, as one social scientist has noted:

"an ideology which has two components: an ideational or belief side, and a practical or behavioural side. Both sides depend on each other and are mutually supportive. When people behave in a discriminatory fashion, they cannot then deny that they do not

subscribe to a belief system on which such behaviour thrives."
(Watson, 1988)

In other words, the ideology of racism is based on a system of social values and arrangements which reflects both racial prejudice and discrimination.

This phenomenon has existed in Nova Scotia and in Canada for more than 200 years. It is obviously deeply embedded in the values, attitudes and behaviour of the society. The neglect, discrimination and exploitation described in this study merely reflect these facts. The historical development of Nova Scotia and the United States was based to a considerable extent on slavery. However, slavery was merely one of the many forms of exploitation of human labour in the development of an industrial society. Peonage, peasantry, and serfdom preceded slavery by several hundred years, but slavery was based on racial characteristics and the victim was easily recognizable. Slavery and its later subsequent "Jim Crowism" were maintained by the interests of governments and ruling elites as an easy method of capital accumulation. The "free enterprise system" is licensed and, to a large extent, regulated by government. While we expect the owners and managers of economic enterprises to operate in a fair manner, the obvious fact is that many do not. The failure of both voluntary and government agencies to ensure fairness and equality of opportunity is the major reason for the necessity of doing this study.

Voluntary agencies such as the Black United Front and other groups are under-funded and largely limited to a crisis management approach. The small poverty-stricken communities which they seek to serve simply cannot provide the financial support necessary for effective work so they depend upon basic survival funding from government. It appears that the Government of Nova Scotia has little interest in changing this situation. Nevertheless the importance of voluntary organizations cannot be overestimated, particularly when they are free of government control. They are needed to push for effective legislation on behalf of their constituency, in this case, the Black community of Nova Scotia. Equally as important is their role as a monitor of the performance of government programs.

The various societal institutions - the church, the entrepreneurial system, the schools, the police, courts, and the military - can be said to be mobilized to provide the attitudes and practices necessary to maintain the belief system and practices of society. In this sense they of course are implicated in the practice of discrimination and exploitation as well. While complicating matters one has then to see the question of unfairness and inadequacy in the criminal justice system in a broader context. The criminal justice system is not the

only institution which must change its ways. Here we deal with three of these broader areas, namely education, employment and the role and programs of voluntary and government services related to the struggle against racism and for human rights.

6.7 Education

This study has demonstrated that Blacks face barriers and are handicapped by the educational system of Nova Scotia. The result is predictable: Blacks drop out of schools in disproportionate number and are therefore not equipped to compete for employment requiring professional and other high level skills. The "streaming" of Black children into vocational and other "basic level" classes is seen by many Black leaders as designed to keep them in subordinate positions, perhaps as "hewers of wood and drawers of water." Until the recent past that ideology has worked well; however, the Black and other deprived communities are beginning to wake up and discern what has happened to them. The educational authorities must recognize that Canada and Nova Scotia have become multiracial and multicultural societies and they must reflect this in their message, materials and staffing.

30. Nova Scotian educational authorities, *i.e.* the Department of Education and local school boards, should immediately begin an examination of curricula and other teaching materials used by the public schools to ensure that books which teach prejudice and the concept of racial superiority/inferiority are clearly identified and staff instructed regarding how to interpret this material, some of which can be found in many of the classics.

31. As in many other parts of Canada, the schools of Nova Scotia should engage their staff in the development of race relations and multicultural policies. It is a responsibility of the educational system to provide proper educational experiences for all children. This should be a matter of immediate concern to all educational authorities.

32. In-service educational programs should be organized for all teachers and staff, particularly those who work in multiracial or multicultural neighbourhoods. These courses should be designed to prepare teachers to understand and appreciate racial and cultural differences. No attempt should be made to force children to reject their former culture and language.

* The terms "affirmative action" or "positive action" are used to describe a comprehensive program adopted by employers to eliminate institutional barriers excluding certain groups or resulting in the unequal treatment of "visible minorities" or other disadvantaged groups. Affirmative action programs are action oriented and seek measurable improvements in the work opportunities of affected groups [*Equality Now, a Report of the Special Committee on Visible Minorities in Canadian Society, Ottawa, 1984*].

33. Employment of visible minority teachers is essential for teaching in a multiracial and multicultural society. Affirmative action* programs designed to recruit and train more Black and other visible minority teachers should be given the highest priority.

34. In order to encourage community participation in devising programs to reduce racism in the school, new ideas should be considered, such as establishing through Parent/Teacher Associations, where appropriate, committees on race relations or multiculturalism with participation from parents and other members of the affected communities.

35. The Nova Scotia Department of Education should support the employment of race and ethnic consultants by local boards of education, particularly in urban areas and other areas in which considerable numbers of Blacks and other visible minority groups reside. Funding should be made available for this purpose.

36. Education and training is necessary. The key issue in such programs is the determination of top officials to make it clear to all employees that discriminatory behaviour will not be tolerated. An adequate structure to enforce this policy is essential. Leadership in the structure must be given full authority and held accountable by the Department of Education and local boards.

6.8 Employment

The most frequent area of complaint documented in this study was related to discrimination in employment. Complaints involved both the public (government) and private sectors. Incidents were cited in which prospective employees were offered jobs when contacted by telephone but when the applicant arrived for the interview, all too often they were told that "the job had just been filled"! Both Black and non-Black respondents rated employment discrimination as the most serious problem facing the Black community. The most frequent complaint filed with the Nova Scotia Human Rights Commission, as well as others across the country, involves employment discrimination.

It should be apparent that a democratic society faces a cruel dilemma when it promises equal opportunity to all and yet a considerable portion of its population suffers from blatant discrimination based on its racial classification. The implications for the criminal justice system are many. Joblessness or dead-end employment may predispose one to illegal activities. Low legitimate earnings may cause persons to default on fines and to experience incarceration. Employment discrimination may effectively prevent

rehabilitation of offenders and have other negative effects.

The Report of the Special Committee on Visible Minorities in Canadian Society states that:

"visible minorities typically encounter more difficulties in being accepted in a variety of social situations than do their White counterparts. But those difficulties, however unfortunate, pale in significance if a person is unemployed. Finding work in keeping with a person's qualifications is probably the most important issue brought before the Committee."

A variety of procedures are used by businesses and governments to prevent the employment of minority groups including requiring "Canadian experience", word of mouth recruiting, culturally-biased testing procedures, and the all important personal interview. Even in those instances where a minority group person is employed, barriers to advancement (promotion) may constitute another level of discrimination which minority group members rarely surmount.

37. The Provincial Government should enact affirmative action (employment equity) legislation requiring that employers develop affirmative action plans which must be submitted and approved by Government, particularly in respect to contract compliance.

"Contract compliance" is defined as the requirement that any firm doing business with the Government must submit and receive approval of plans to employ minority groups in relation to the proportion of the group to the total population. An action plan including goals, timetables and recruitment targets must be required. A failure to meet these goals, in the absence of a reasonable effort, could result in cancellation of the contract.

38. The Government of Nova Scotia should recognize that it too has a problem. The Provincial Government should immediately begin the process of identifying the level of disproportionate representation of Blacks and other visible minorities in its workforce. This will require a clear indication of the total number of public servants, the total number of Blacks and others, and the level of responsibility as judged by work status, that is supervisors, department managers, assistant deputy ministers, et cetera. Any disparities should be recognized, evaluated and an action plan developed to make necessary changes in order to reflect the population composition of the province.

6.9

Organizations and Agencies

It has been noted in this study that, aside from the church, the Black community has, for various reasons, not been able to establish strong local or provincial organizations in Nova Scotia. The Black United Front, established with government support, is an important exception. While the Black United Front has not been able to live up to the expectations of many, including some Blacks, it is an essential province-wide instrument for Blacks and should be greatly strengthened. The Government of Nova Scotia should give adequate recognition and support to the struggle of this organization to overcome the massive barriers to equality of opportunity which exist in the province.

The Government has taken a small step in meeting its responsibilities through the establishment of the Nova Scotia Human Rights Commission. This government agency was sharply criticized by some respondents in this study for lack of adequate resources for effective work. Given its limited mandate, or perceived limited mandate, and resources which limit it to a reactive role for the most part, it is doubtful that the agency can realistically be expected to make a strong impact on racism in the province, certainly as regards issues related to the criminal justice system. The resources of the Commission have not kept pace with its increasing workload. However, the lack of adequate resources is only one of its problems. The mandate of the Commission is in need of expansion. The history of Human Rights Commissions in both the United States and in Canada clearly reveals that the method of investigating and attempting to conciliate complaints is not working and that a much more proactive thrust coupled with powers to initiate inquiries may be required.

39. The Government of Nova Scotia must recognize the importance of the Black United Front and other similar organizations in the struggle for equality of opportunity by the Black community. This recognition should be accompanied by a major increase in government funding for well-designed and properly managed projects (as of the moment the funding is largely limited to administrative costs).

40.(a) The mandate of the Nova Scotia Human Rights Commission should be expanded to include new approaches to deal with discrimination and, particularly, structural discrimination. Among other items, the agency should be given the power to (1) initiate complaints, (2) engage in research designed to discover the extent and nature of discrimination in employment, education, public services and other aspects of community life.

(b) The Commission should be given a monitoring role in checking the effectiveness of the *Human Rights Act* in the struggle against discrimination against Blacks and other designated groups so that corrective action can be taken when agreements to honor the Act are not honored in practice.

(c) The Commission should be given the mandate to require that the public and private sector develop affirmative action programs designed to remove barriers to equality of opportunity in employment, education, and in access to services.

(d) Serious attention should be given to the role that the Commission should be playing as regards discrimination, employment and so forth within the criminal justice system. While it may not be desirable to extend the Commission's mandate in these regards, it should be clear that problems of prejudice, discrimination, affirmative action and the like may now be falling outside the mandate of any organization.

41. Finally, the Government should demonstrate its commitment to equality in all aspects of human life. It is simply intolerable that a democratic government can continue to permit the level of discrimination against its Black citizens found in this study. This required change will necessitate in turn much greater proactive activity in the field of justice by both the Attorney General and Solicitor General Departments in Nova Scotia. Clearly they should be championing rights and freedoms, especially for visible minorities, and not simply reacting to cases.

6.10 Concluding Observations

This report has presented a picture of widespread discrimination against Blacks in the criminal justice system and in society as a whole. The data collected and analyzed leaves little room for doubt in that regard. With respect to the criminal justice system there is a remarkable level of agreement between the attitudes, perceptions and, to some extent, even the experiences of the Black and non-Black populations included in the various samples.

Recommendations based on the findings of this study, the experiences of other communities facing similar problems, and consultations with knowledgeable individuals are presented in the hope that constructive changes will be made in the pattern of attitudes and discrimination which effectively maintain Blacks in a subordinate position in the province. Blacks are effectively excluded from participation in the mainstream of Nova Scotia society.

It is of course recognized that there are limits to government action in the absence of wide popular support of the necessary changes, and even positive actions such as seminars, workshops,

et cetera may result in unexpected consequences. Some prejudiced individuals leave these experiences more convinced of the rightness of the prejudices than prior to the experience. Neither is affirmative action always effective, that is, in the absence of strong sanctions, when the program is undermined by workers and managers determined to prevent change.

This study has focussed on an essential arena of life in the province, the criminal justice system. But it recognized and placed that system in the context of the wider structure of the society. It is, as are most research studies, limited in its scope; it made no effort to cover the entire Nova Scotia landscape. But its findings should be of value to those interested in understanding and evaluating the knowledge contained in its pages.

The inter-relationships between the criminal justice system and the social, economic and educational systems are explored in some depth. However this is an area in which more in-depth studies are needed. That relationship was at least in part explored by John Hogarth (1971) in his pioneering study of "Sentencing as a Human Process". Other aspects such as the social, economic and cultural backgrounds of lawyers and judges, the impact of legal education on the views and behaviour of students of different social and economic classes, and some examination of the basic assumptions of legal theory and practice, need examination. What, for example, should be the role of law in attempting to resolve the current massive social, economic, political and cultural problems through legal means, an issue which early legal theorists could not have imagined would be tossed into courtrooms for solutions by judges?

Experience in the United States and in other parts of Canada clearly indicates that the major factor in making fundamental change on behalf of a vulnerable group such as the Nova Scotian Blacks is legal action by government. Education helps but education is not enough. The government must first enact the necessary laws which will strengthen institutional structures such as in this instance its Human Rights Commission. Clearly too, affirmative action programs and proactive agency and departmental styles are also required. Also, the government must get its own house in order; for example, it has the power to enforce employment equity and affirmative action in its own public service and can implement the kind of contract compliance noted above. The Federal Government has already taken several of these steps.

The findings of this study suggest that the criminal justice system, as other societal structures, has not met the needs of the residents of Nova Scotia for "equal justice under the law". It, like other structures, reflects the influence of social attitudes toward poverty, class and race. It is inexcusable that people of non-White racial

background can be treated with ill-disguised hostility in a court of law. It should be a first order of business of the Provincial Government to change this situation wherever it exists. This is a matter in which the government has the power to take immediate action. It does not have to wait for a change in public opinion.

The academic debate related to methods and approaches to change are not relevant here. Educational and legal approaches are both required and can be utilized simultaneously. But racism is an attitude and practice derived from the prevailing social arrangements of society, including the distribution of wealth, power, prestige and status. Since Blacks are effectively isolated and marginalized from those arrangements, it can be argued that the most effective response to their condition is the enactment of appropriate laws. The mere enactment of laws, however, is not enough; there must be effective enforcement of those laws irrespective of the status of the offender. Other social, economic, educational and cultural structures must be used in support of legal sanctions. For example, the media is perhaps the most powerful tool available in the formation of public attitudes. Today the media is used primarily to promote negative stereotypes of Blacks and also to promote the social values of the rich and powerful. The media, particularly television, can and should be used for more humane and democratic ends.

These considerations are merely possibilities. No research can do more than study and provide data which can be useful in the solution of specific problems. The key and essential element is the need for social and political action. The research is a tool which can be used for positive and constructive change or it can be buried in the archives of the Government of Nova Scotia. Not only must the Government of Nova Scotia make the unequivocal decision to make the necessary changes in its criminal justice system and other relevant social institutions, it must demonstrate the political will to do the job against whatever opposition that may emerge. Any change which gives increased recognition and power to an excluded group will be viewed by some as reducing their own power and privileges.

Moreover, the Black communities of this province must seize the opportunity which this study presents, to push for constructive changes in government policies and practices. Over the last 200 years, various governments of this province have, virtually without exception, demonstrated strong reluctance to take meaningful steps on behalf of the Black population. On the basis of past experience, it can be expected that government will only move when Blacks forcefully demand the right to be accepted and recognized as full participants in the social, economic, political and cultural life of this province. Anything less must be considered as a denial of the

democratic rights of the Black population and will be subjected to continuous challenge until those rights are won.

There is scant evidence that social organizations will, except under unusual circumstances, reform themselves. For example, the abolition of slavery was not accomplished by slave owners; it was accomplished by the effort of slaves and their sympathizers who were revolted by the brutal and degrading system under which slaves were exploited. Likewise, the reform of the criminal justice system and the institutions of the broader society are not likely to be embarked upon in the absence of outside pressure. It will be the role of the Black community to identify and recruit liberal-minded non-Blacks to recognize and support them in the elimination of racist attitudes and practices in the province of Nova Scotia.

The acid test of government intention, however, will be its interest in setting up appropriate structures and, as recommended, to strengthen the mandate and resources of present agencies to monitor and evaluate progress. The monitoring role is essential since changes made in a reluctant fashion will not be maintained; targets, guidelines and procedures must be clarified and strictly observed. Considerable experience already exists - the challenge is a question of political will!

Part 7

Summary of Recommendations*

Policing

- | | |
|--|--|
| 1
Multicultural Courses and Training | That the Nova Scotia Police Commission provide leadership in the initiation of courses and training in multiculturalism and race relations for the police forces of the province. |
| 2
Charter and Human Rights | That members of police forces be specifically instructed regarding citizens' Charter and human rights and the responsibility of police to observe and protect those rights. |
| 3
Quality of Policing | That the organization and management structure of police forces in the province be examined with the goal of improving the quality of policing in the province, including in particular the treatment of Blacks and other visible minorities by police officers. Local police boards and police management alike should exercise more leadership in fostering understanding between police and visible minorities. |
| 4
Public Complaints | That the functioning of the new Police Review Board be closely scrutinized to ensure that it fully and effectively deals with complaints of police prejudice and discrimination. |
| 5
Race Relations | <p>(a) That a Race Relations Unit be established by police in the Metropolitan Halifax/Dartmouth area in order to reduce and control racial conflict and to promote greater understanding between the police and visible minority groups.</p> <p>(b) That consideration be given to developing Race Relations Units and similar linkages between police and visible minorities in other areas of the province.</p> |
| 6
Police/Community Relations | Police officers should be assigned to visit public schools, minority organizations and so forth to meet with the children, staff persons and local communities in order to become more knowledgeable and understanding of the problems of local communities. This initiative can be of immense value in developing more positive police/community relations and effective policing practices. It is important that programs such as these which invite contact and |

* The reader is referred to Part 6 ("Implications and Recommendations") above for a more detailed discussion of the recommendations summarized here.

participation of the citizens with police and police policy be positively valued by the police organizations and not, as is often the case where they do exist, be defined as marginal to the policing enterprise.

7
Racial Slurs and Stereotyping

That police forces promulgate policies prohibiting racial slurs and stereotyping by police officers and imposing disciplinary sanctions for violations.

8
Recruitment and Promotion

That police commissions and police management carefully review current recruitment and promotional practices in order to create more opportunities for Blacks and other visible minorities through affirmative action programs and similar positive policies.

9
Atlantic Police Academy

That the Atlantic Police Academy expand their programs on human rights, race and ethnic relations at the cadet level and that mandatory in-service programs of a similar nature be established by provincial authorities.

10
Data Collection

That police departments be required to collect, maintain and monitor data with respect to issues such as harassment and other complaints by race and ethnic status.

Courts

11
Education for Judges

That the Nova Scotia and Canadian Judicial Councils organize in-service multicultural and race relations education courses for judges in cooperation with such resource agencies as the Nova Scotia Human Rights Commission, the Dalhousie Law School, the Atlantic Institute of Criminology and university departments.

12
Education for Lawyers

That the Nova Scotia Barristers' Society organize multicultural and multiracial continuing professional education programs for its members.

13
Judges In-Service Training

That provision be made for judges to take educational sabbaticals designed to promote a greater awareness and understanding of the experiences and condition of Blacks, Native peoples and other visible minorities.

14 Appointments	That the appointment of Black and visible minority judges, Crown attorneys and other court workers be seriously considered.
15 Fairness	That the Attorney General's Department assume a more proactive role in the development of creative and innovative approaches to ensuring increased fairness in the treatment of Blacks and other visible minorities through such means as a Fine Option Program, experimental court worker programs where minorities exist in significant numbers, and other imaginative initiatives.
16 Court Ombudsman	That careful consideration be given to the establishment on a pilot project basis of a Court Ombudsman to monitor court proceedings and respond to complaints of mistreatment in the courts.
17 Fine Options	That a Fine Option Program be established and put in place immediately in order to eliminate the modern equivalent of the old English "Debtors Prison".
18 Pre-Sentence Reports	That Pre-Sentence Reports be required prior to sentencing of first offenders and visible minorities.
19 Legal Aid	That Nova Scotia Legal Aid take a more proactive role in addressing issues affecting Blacks and other visible minorities and that to further this end, funding to the agency be improved.
20 Legal Careers for Visible Minorities	That Government, the Nova Scotia Barristers' Society, and the Dalhousie University Faculty of Law cooperate in the development of a program to identify, recruit and support qualified, visible minority students aspiring to legal careers.

Corrections

21 Recruitment	That correctional authorities immediately implement a program to identify, recruit and employ more Blacks in the various professional and non-professional positions within the correctional institutions.
22 Educational and Cultural Programs	That where numbers warrant, correctional authorities organize educational and cultural programs to serve the needs of Blacks.
23 Alternatives to Incarceration	That particular attention be directed to the development of alternatives to incarceration for Black youth such as programs of restitution or community service.
24 Training Programs	That correctional authorities immediately institute ongoing educational training programs on Black culture and individual Charter rights.
25 Discrimination	That correctional authorities promulgate a clear policy indicating that racial discrimination, including racial slurs, is prohibited, with provision for disciplinary sanctions for violations.
26 Public Information	That correctional authorities facilitate greater public awareness and knowledge of institutional policies and practices.
27 Liaison	That Government should encourage the John Howard Society and similar service agencies to hire special liaison workers for Blacks and other visible minorities and provide the necessary financial assistance.

Monitoring

28

Monitoring and Assessment

That a proactive program of monitoring and assessment be undertaken by the Attorney General's Department regarding the treatment afforded to visible minorities and other persons by the criminal justice system.

29

**Human Rights Commission /
Ombudsman**

That the role of the Nova Scotia Human Rights Commission and the Ombudsman be re-examined particularly in regard to their responsibilities for complaints relating to employment and the provision of services within the criminal justice system.

Education

30

Curricula

That the Department of Education and school boards immediately begin an examination of curricula and teaching materials in order to ensure that books which contain racial prejudice and stereotyping are identified and teachers are instructed in the proper teaching of this material.

31

Race Relations Policies

That the Department of Education ensure as an immediate priority that teachers throughout Nova Scotia engage in the process of developing positive race relations and multicultural policies.

32

Teacher Training

That in-service multicultural and race relations education programs be organized for all teachers and staff with particular emphasis on those communities which have a significant multiracial/multicultural component.

33

Affirmative Action

That the Department of Education give the highest priority to the development and implementation of an Affirmative Action Program designed to recruit and train more Black and other visible minority teachers.

34

Community Participation

That in order to devise programs to reduce racism in the school, consideration be given to establishing, through parent/teacher associations, committees on race relations and multiculturalism.

35 Funding	That the Department of Education provide funding to local school boards to engage race and ethnic consultants, particularly in areas where considerable numbers of Blacks and other visible minorities reside.
36 Discrimination	That the Department of Education exercise clear leadership in the development of a policy prohibiting discriminatory or racist behaviour and ensure an adequate structure to enforce this policy.
Government	
37 Affirmative Action	That the Provincial Government enact affirmative action (employment equity) legislation requiring that firms doing business with the Government develop approved affirmative action plans.
38 Representation	That the Provincial Government immediately assess the level of representation of Blacks and other visible minorities in its workforce and develop an action plan to ensure appropriate representation at all levels of government.
Organizations and Agencies	
39 Funding of Community Groups	That in recognition of the importance of the Black United Front and similar organizations to the Black community, the Government of Nova Scotia substantially increase government funding to these organizations for well-designed and properly managed projects.
40 Nova Scotia Human Rights Commission	(a) That the mandate of the Nova Scotia Human Rights Commission be amended in order to empower the Commission to: 1. initiate complaints; and 2. conduct research into the extent and nature of discrimination within the various areas of the Commission's mandate. (b) That the Commission be empowered and funded to carry out a monitoring role in checking the effectiveness of the <i>Human Rights Act</i> in combatting discrimination against Blacks and other visible minorities. (c) That the Commission be given a mandate to require that both the public and private sectors develop affirmative action programs

designed to remove barriers to equality of opportunity in employment, education and in access to services.

41
Political Will

The Provincial Government should demonstrate its commitment to equality in all aspects of human life. It is simply intolerable that a democratic government can continue to permit the level of discrimination against its Black citizens found in this study. This required change will necessitate in turn much greater proactive activity in the field of justice by both the Attorney General and Solicitor General Departments in Nova Scotia. Clearly, they should be championing rights and freedoms, especially for visible minorities, and not simply reacting to cases.

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Appendices

I List of Participants Peer Review Workshop* on "Discrimination Against Blacks in Nova Scotia: The Criminal Justice System"

June 15, 1988

* Each of the Commission's research studies was scrutinized in early draft form by experts in the field, and discussed in a workshop format with the Commissioners and Commission staff, the peer reviewers, and invited professional and community participants.

Researchers:

1. Dr. Wilson Head, Associate Professor, York University, Toronto, Principal Researcher
2. Winston Barnwell, Department of Education, Dalhousie University, Research Assistant
3. Professor Don Clairmont, Department of Sociology and Social Anthropology, Dalhousie University, Consultant to the Project

Reviewers:

1. Dr. A. Johnston, Executive Director, Nova Scotia Human Rights Commission
2. Professor G. L. Watson, Department of Sociology and Anthropology, University of Prince Edward Island
3. Dan McIntyre, Race Relations Commissioner, Province of Ontario

Royal Commission:

1. Chief Justice Hickman, Chairman
2. Associate Chief Justice Poitras, Q.C., Commissioner
3. Honourable Gregory T. Evans, Q.C., Commissioner
4. George MacDonald, Q.C., Counsel
5. David Orsborn, Counsel
6. W. Wylie Spicer, Counsel
7. Susan Ashley, Commission Executive Secretary, Chair of the Workshop
8. John Briggs, Director of Research

Invited Participants:

1. Bruce Archibald, Associate Professor, Dalhousie Law School
2. Yvonne Atwell, President, Black United Front
3. Jacqueline Barkley, Department of Social Work, Izaak Walton Killam Children's Hospital, Halifax
4. Delvina Bernard, Program Coordinator, Youth Employment Skills Canada Inc., Halifax
5. Anne Derrick, Counsel to Donald Marshall, Jr.
6. John Embree, Department of Attorney General, Nova Scotia
7. Jim Fanning, Department of Attorney General, Nova Scotia
8. Russell Juriansz, Lawyer, Blake, Cassels and Graydon, Toronto, former General Counsel, Canadian Human Rights Commission
9. William MacDonald, Q.C., Deputy Attorney General, Nova Scotia
10. James H. Morrison, Dean of Arts, St. Mary's University, Halifax

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11. Darrel Pink, Counsel to Department of Attorney General,
Nova Scotia
 12. Joyce Robart, Chairperson, Halifax-Dartmouth Justice
Committee
 13. Tony Ross, Counsel to Black United Front
 14. Jamie Saunders, Counsel to Department of Attorney General,
Nova Scotia
 15. Gerald M. Taylor, Executive Director, Black United Front
 16. Bruce Wildsmith, Counsel to Union of Nova Scotia Indians

2 Selected Tables*

* The Tables in this Appendix come from the Marginal Work World Study carried out at the Institute of Public Affairs, Dalhousie University, between 1976 and 1982.

Table 2
Level of Education, Black Population Sample*, by Region, 1976

Region	Level of Education				Total
	Grade 6 or less	Grades 7-9	Grades 10-13	Post Secondary	
Amherst/Truro	31.4%	45.2	20.7	2.7	100.0 (217)
Antigonish/Guysborough	53.3%	40.7	6.1	—	100.1 (214)
Urban Fringe	40.3%	46.1	12.1	1.5	100.0 (414)
Southwest N.S.	21.8%	53.0	22.9	2.2	99.9 (362)
Windsor/Valley	38.5%	43.4	16.6	1.5	100.0 (283)
Sydney Area	17.1%	42.3	37.5	3.1	100.0 (293)
Total Sample	32.9%	45.7	19.5	1.9	100.0 (1783)

() - Represents number of people.

Source: IPA Data Base.

*In this and subsequent Tables, the Black population sample refers to individuals 15 years of age and over who have left the regular school system (elementary or secondary school) and who were residents of selected Black communities in Nova Scotia in 1976.

Table 9
Labour Force Characteristics, Nova Scotia, 1971-1979

Year	1971	1972	1973	1974	1975	1976	1977	1978	1979
Population 15+ (thousands)	528	538	550	561	573	585	596	607	618
Labour force (thousands)	276	280	295	313	317	323	329	342	352
Employed (thousands)	256	261	275	292	292	292	294	306	316
Unemployed (thousands)	19	20	19	21	24	31	35	36	36
Unemployment rate	7.0	7.0	6.6	6.8	7.7	9.5	10.6	10.6	10.2
Participation* rate	52.2	52.1	53.7	55.8	55.3	55.2	55.2	56.4	56.9

* Labour force as a percentage of population 15 years and over.

Source: Statistics Canada, 71-201

Table 12
Employment Status, Black Labour Force Sample, at One Point in Time During 1976, by Region

Region	Employment Status		Total
	Employed	Unemployed	
Amherst/Truro	88.2%	11.8	100.0 (127)
Antigonish/Guysborough	65.7%	34.3	100.0 (98)
Urban Fringe	87.3%	12.7	100.0 (275)
Southwest N.S.	62.2%	37.8	100.0 (201)
Windsor/Valley	70.3%	29.7	100.0 (192)
Sydney Area	71.9%	28.1	100.0 (192)
Total Sample	75.0%	25.0	100.0 (1085)

() - Represents number of people. Source: IPA Data Base.

Table 14
Employment Status, Black Labour Force Sample, for all of 1975, by Region

Region	Employment Status			Total
	Regular Employment*	Irregular Employment**	Unemployment Year-round	
Amherst/Truro	74.4%	17.1	8.5	100.0 (129)
Antigonish/Guysborough	71.6%	12.6	15.8	100.0 (95)
Urban Fringe	75.3%	15.4	9.3	100.0 (279)
Southwest N.S.	45.4%	39.4	15.3	100.1 (216)
Windsor/Valley	64.8%	25.9	9.3	100.0 (193)
Sydney Area	65.7%	17.9	16.4	100.0 (201)
Total Sample	65.5%	22.3	12.2	100.0 (1113)

() - Represents number of people.

*Regular employment refers to reasonably steady work through the year, although not necessarily at one job or full time.

**Irregular employment implies seasonal work or work combined with other activities, e.g., as a student or a homemaker. It usually implies some reliance on social assistance during periods of under-employment. Source: IPA Data Base.

Table 16
Extent of Reliance on Social Assistance Black Population
Sample, by Region, 1975

Region	Extent of Social Assistance Reliance		
	Use of Social Assistance	No Use of Social Assistance	Total
Amherst/Truro	35.1%	64.9	100.0 (225)
Antigonish/Guysborough	46.6%	53.4	100.0 (219)
Urban Fringe	26.7%	73.3	100.0 (431)
Southwest N.S.	52.7%	47.3	100.0 (376)
Windsor/Valley	44.0%	56.0	100.0 (293)
Sydney Area	33.1%	66.9	100.0 (320)
Total Sample	39.1%	60.9	100.0 (1864)

() - Represents number of people. Source: IPA Data Base.

Table 24
Predominant Wage Level of Employing Establishment for the Black Labour
Force Sample, by Region, 1975

Region	Predominant Wage Level of Establishment*			Total
	Up to \$3.50/hr.	\$3.50 to \$4.50/hr.	Over \$4.50/hr.	
Amherst/Truro	39.2%	16.6	44.3	100.1 (115)
Antigonish/Guysborough	34.2%	6.8	58.9	99.9 (73)
Urban Fringe	30.4%	12.5	57.1	100.0 (240)
Southwest N.S.	53.7%	12.6	33.7	100.0 (190)
Windsor/Valley	46.4%	11.3	42.3	100.0 (168)
Sydney Area	37.6%	17.5	44.9	100.0 (165)
Total Sample	40.5%	13.2	46.2	99.9 (951)

() - Represents number of people.

*Establishments were classified according to the wage level of a majority of their regular work force. If a majority did not fall in any one wage level, the intermediate wage category was coded.

Source: IPA Data Base.

Table 2-8

Labour Force Participation Rates, Employment Rates and Unemployment Rates for Heads of Households, by Community

Community	Labour Force Participation Rate	Full Time Employment Rate	Part Time Employment Rate	Unemployment Rate
Acaciaville	56.3%	66.7	11.1	22.2
Digby	64.3%	66.7	33.3	0.0
Granville Ferry	36.4%	100.0	0.0	0.0
Greenville	66.7%	60.0	10.0	30.0
Liverpool	60.0%	66.7	0.0	33.3
Shelburne	73.2%	83.3	0.0	16.7
Yarmouth	63.0%	58.8	17.6	23.5
Weymouth Falls	36.7%	86.4	4.5	9.1
Aldergrove	71.4%	100.0	0.0	0.0
Avonport and Denson	42.9%	100.0	0.0	0.0
Brickyard Road	100.0%	33.3	66.7	0.0
Centerville	n/a	n/a	n/a	n/a
Chapman Hill	41.7%	60.0	0.0	40.0
Sheffield Mills	94.1%	100.0	0.0	0.0
Hantsport	88.9%	87.5	12.5	0.0
Middleton	27.3%	33.3	0.0	66.7
Windsor Plains	46.9%	53.3	10.0	36.7
Amherst	60.5%	84.6	3.8	11.5
New Glasgow	60.8%	84.4	2.2	13.3
Springhill	63.6%	85.7	14.3	0.0
Truro	43.5%	80.0	10.0	10.0
Antigonish	100.0%	50.0	0.0	50.0
Beech Hill	100.0%	100.0	0.0	0.0
Hazel Hill	100.0%	100.0	0.0	0.0
Lime Hill	100.0%	100.0	0.0	0.0
Lincolnville	78.9%	80.0	0.0	20.0
Lower South River	100.0%	100.0	0.0	0.0
Rear Monastery	n/a	n/a	n/a	n/a
Sunnyville	87.5%	85.7	0.0	14.3
Tracadie	92.3%	75.0	0.0	25.0
Glace Bay	55.2%	81.3	12.5	6.3
New Waterford	33.3%	100.0	0.0	0.0
Sydney	60.9%	92.5	1.9	5.7
Beachville	53.8%	71.4	7.1	21.4
Cherrybrook	68.8%	88.6	4.5	6.8
Dartmouth	74.7%	68.6	10.1	21.3
East Preston	62.8%	75.0	7.9	17.1
Halifax	53.1%	79.5	7.9	12.7
Hammonds Plains	74.7%	92.9	1.8	5.4
Lucasville	67.4%	87.1	3.2	9.7
North Preston	61.6%	60.4	20.8	18.9
Sackville A	80.0%	75.0	0.0	25.0
Sackville B	62.5%	100.0	0.0	0.0
Total	61.1%	77.1	8.0	14.8

Table 2-9

Labour Force Participation Rates, Employment Rates and Unemployment Rates for Heads of Households, by County

County	Labour Force Participation Rate	Full Time Employment Rate	Part Time Employment Rate	Unemployment Rate
Shelburne	73.2%	83.3	0.0	16.7
Yarmouth	64.3%	59.3	14.8	25.9
Digby	44.4%	77.5	12.5	10.0
Queens	60.0%	66.7	0.0	33.3
Annapolis	35.3%	66.7	0.0	33.3
Kings	76.3%	100.0	0.0	0.0
Hants	52.1%	60.5	10.5	28.9
Halifax	61.7%	75.7	9.1	15.1
Colchester	50.0%	69.2	23.1	7.7
Cumberland	61.1%	84.8	6.1	9.1
Pictou	60.8%	84.4	2.2	13.3
Guysborough	86.7%	82.1	0.0	17.9
Antigonish	100.0%	80.0	0.0	20.0
Inverness	100.0%	100.0	0.0	0.0
Cape Breton	58.8%	90.0	4.3	5.7
Total	61.1%	77.1	8.0	14.8

Table 3-9

Black Household Income and Census Household Income, 1978.

County	(a) Black Households	(b) Census Households*	(a) as a % of (b)
Shelburne	11,050.00	13,312.00	83.0%
Yarmouth	7,800.00	13,085.00	59.6%
Digby	7,150.00	10,140.00	70.5%
Queens	8,450.00	12,953.00	65.2%
Annapolis	5,850.00	12,176.00	48.0%
Kings	9,750.00	13,223.00	73.7%
Hants	8,450.00	14,178.00	59.6%
Halifax	8,450.00	17,461.00	48.4%
Colchester	9,750.00	13,651.00	71.4%
Cumberland	5,850.00	11,574.00	50.5%
Pictou	8,450.00	14,243.00	59.3%
Guysborough	5,850.00	11,613.00	50.4%
Antigonish	7,150.00	14,373.00	49.7%
Inverness	9,750.00	13,931.00	70.0%
Cape Breton	7,150.00	14,790.00	48.3%
Total	8,450.00	14,851.00	56.9%

Source: Statistics Canada, 1981 Census, Catalogue 93-x-939 (E-573).

Note: The census household income reported here reflects 1980 household income reported by the census expressed in 1978 dollars using the Nova Scotia CPI for 1979 and 1980.

Table 4-10

Labour Force Participation Rates, Employment Rates and Unemployment Rates for the Survey Population, by County

County	Labour Force Participation Rate	Full Time Employment Rate	Part Time Employment Rate	Unemployment Rate
Shelburne	47.7%	69.8	17.5	12.7
Yarmouth	49.0%	52.9	12.9	34.3
Digby	42.7%	57.0	17.2	25.8
Queens	31.8%	71.4	0.0	28.6
Annapolis	37.5%	41.7	16.7	41.7
Kings	61.2%	77.2	2.5	20.3
Hants	52.3%	50.0	11.5	38.5
Halifax	62.3%	68.5	10.4	21.1
Colchester	60.7%	52.9	20.6	26.5
Cumberland	60.0%	75.0	4.2	20.8
Pictou	55.4%	75.9	6.9	17.2
Guysborough	55.5%	79.0	3.7	17.3
Antigonish	68.2%	80.0	0.0	20.0
Inverness	61.5%	87.5	0.0	12.5
Cape Breton	53.1%	70.8	7.1	22.1
Total	58.6%	68.0	10.0	21.9

Table 4-14

Labour Force Participation Rates and Unemployment Rates for Black Males and for all Males, by County

	Labour Force Participation		Unemployment Rate	
	Black Males	All Males	Black Males	All Males
Shelburne	59.7%	72.0	12.5	6.6
Yarmouth	64.3%	68.0	42.2	7.7
Digby	57.1%	67.5	28.1	9.7
Queens	54.5%	69.3	16.7	6.0
Annapolis	46.4%	70.7	30.8	7.6
Kings	66.7%	73.3	18.8	8.0
Hants	73.2%	73.3	38.5	8.7
Halifax	73.2%	79.4	21.2	6.4
Colchester	82.6%	74.0	21.1	8.0
Cumberland	77.8%	66.7	12.2	11.8
Pictou	84.3%	70.3	18.6	4.7
Guysborough	77.0%	65.0	22.8	13.4
Antigonish	90.9%	71.9	30.0	10.6
Inverness	50.0%	68.2	25.0	14.6
Cape Breton	70.9%	67.0	21.1	14.1
Total	71.6%	73.2	22.2	8.7

Note: Labour force participation rates for Black males have been calculated as far as possible to be consistent with Statistics Canada's calculation of such rates by using the (male) population 15 and over not attending school.

Columns headed "Black Males" are computed from the survey data. Columns headed "All Males" are taken from the 1981 Census.

Source: Statistics Canada, 1981 Census, Catalogue 93-x-939

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- 29c** Reasons for Choosing Aspect of the Criminal Justice System Interested in Responding to Community Requests for Change by Occupation and Race
 - 30** Suggestions for Changes to the Criminal Justice System by Occupation and Race
 - 30b** Suggestions for Changes to the Criminal Justice System by Education and Race

Sample Selection and Characteristics

In the Fall of 1987 a group of interviewers was selected, one from each area indicated below, and trained in the use of the survey instrument. Data were collected largely by means of face-to-face interviews but in some cases where it was not feasible to meet face-to-face, interviews were conducted by telephone. Lists of names of Blacks were obtained from local Black organizations and the names of non-Blacks were drawn at random from local telephone directories. Since in Halifax and Dartmouth not all non-Black respondents were known to the interviewers and since racial identity was not asked, non-Black rather than White is used to describe this sample. Of course practically all of this non-Black sample would be White. A description of the sample population is provided in Tables 1-4.

In some Tables the totals shown are higher than the sample size; in such cases respondents had the option to select more than one response. In other Tables the totals shown are smaller where some respondents refused to answer certain questions.

Description of the Sample

The population (total $n = 524$) for this study has been chosen from eight different communities in Nova Scotia: Halifax, Dartmouth, Sydney, Preston, Lake Loon/Cherrybrook, Monastery, New Glasgow, Yarmouth/Weymouth. It is comprised of both Black ($n = 365$) and non-Black ($n = 159$) residents of Nova Scotia. Interviewers reported

on the difficulty of getting non-Blacks in Sydney to participate in the survey. The reference to the Marshall Commission caused some of these potential respondents to refuse the interview. The Black sample was compiled from names supplied by informants, mainly Black United Front staff and other community workers. The population for the study is in part a quota sample in order to select appropriate numbers by age category as it was felt that this age group would be most likely to be involved seriously with the

Table 1
Sample Nova Scotian Population Showing Age by Residence*, by Race and Sex

Age	Black				Non-Black				
	Urban		Other		Urban		Other		Total
	M	F	M	F	M	F	M	F	
Less than 25 years	50.5% (50)	44.8 (30)	35.4 (34)	36.3 (37)	50.8 (30)	41.7 (30)	40.0 (6)	22.2 (2)	42.2 (219)
25 - 54 years	38.4% (38)	47.8 (32)	40.6 (39)	42.2 (43)	32.2 (19)	51.4 (37)	33.3 (5)	44.4 (4)	41.8 (217)
55 years and over	11.1% (11)	7.5 (5)	24.0 (23)	21.6 (22)	16.9 (10)	6.9 (5)	26.7 (4)	33.3 (3)	16.0 (83)
Total	100.0% (99)	100.1 (67)	100.0 (96)	100.1 (102)	99.9 (59)	100.0 (72)	100.0 (15)	99.9 (9)	100.0 (519)**

() - Represents number of people.

* Urban includes samples from Halifax, Dartmouth and Sydney, all other areas are included in Other.

** Five cases had missing data.

Table 2
Sample Nova Scotian Population Showing Age by Race, Sex and Employment Status

Age	Black				Non-Black				
	Employed		Unemployed		Employed		Unemployed		Total
	M	F	M	F	M	F	M	F	
Less than 25 years	35.1% (39)	34.2 (27)	55.7 (44)	44.0 (37)	46.0 (23)	38.3 (18)	53.8 (14)	41.7 (15)	42.4 (217)
25 - 54 years	48.6% (54)	57.0 (45)	25.3 (20)	32.1 (27)	46.0 (23)	55.3 (26)	7.7 (2)	44.4 (16)	41.6 (213)
55 years and over	16.2% (18)	8.9 (7)	19.0 (15)	23.8 (20)	8.0 (4)	6.4 (3)	38.5 (10)	13.9 (5)	16.0 (82)
Total	99.9% (111)	100.1 (79)	100.0 (79)	99.9 (84)	100.0 (50)	100.0 (47)	100.0 (26)	100.0 (36)	100.0 (512)

() - Represents number of people.

criminal justice system. A balance was sought between the male and the female respondents of the sample.

Table 1, on the previous page, presents a description of the two sample populations showing age by residence, race and sex. The Black population is composed of 195 males and 169 females and is more likely to live outside an urban area. There are roughly equal numbers in the less than 25 years and the 25 to 54 age groups with a much smaller number in the older age category. The older age group is more likely to live in non-urban

areas. On the other hand the non-Black population, comprised of 74 males and 81 females, is much more likely to live in an urban area. The numbers in the other residential category are small and would be considered unreliable for the purpose of analysis. The distribution among the age groups is similar to the Black population.

Tables 2 to 5 present data on the socio-economic characteristics of the respondents. Turning first to employment (Table 2) the Black population shows 190 employed and 163 unemployed. Most of the unemployed are under 25 years of age both for males and females. Males and females are fairly equally dispersed among the various categories. The non-Black population shows 97 employed and 62 unemployed, proportionately less unemployed than the Black sample. The age pattern of the non-Black sample is similar to that of

the Blacks in both the employed and unemployed.

Examination of employment status by age and race (Table 2b) confirms the finding of high unemployment among the Black sample with those under 25 years of age being most severely affected. Blacks in the prime age group show the highest levels of employment. The non-Black sample shows higher levels of employment than the Black sample with the difference being

Table 2b
Sample Nova Scotian Population Showing Employment Status by Age and Race

Employment	Black			Non-Black			Total
	Less than 25 yrs.	25-54 years	Over 55 years	Less than 25 yrs.	25-54 years	Over 55 years	
Yes	44.9% (66)	67.8 (99)	41.7 (25)	58.6 (41)	73.1 (49)	31.8 (7)	56.1 (287)
No	55.1% (81)	32.2 (47)	58.3 (35)	41.4 (29)	26.9 (18)	68.2 (15)	43.9 (225)
Total	100.0% (147)	100.0 (146)	100.0 (60)	100.0 (70)	100.0 (67)	100.0 (22)	100.0 (512)

() - Represents number of people.

Table 2c
Sample Nova Scotian Population Showing Employment Status by Education* and Race

Employment	Black		Non-Black		Total
	Low Education	High Education	Low Education	High Education	
Yes	43.1% (91)	70.2 (99)	38.6 (22)	74.3 (75)	56.3 (287)
No	56.9% (120)	29.8 (42)	61.4 (35)	25.7 (26)	43.7 (223)
Total	100.0% (211)	100.0 (141)	100.0 (57)	100.0 (101)	100.0 (510)

() - Represents number of people.

* Low education levels include all those who have not completed high school, all others are included in the High category.

Table 3
Sample Nova Scotian Population Showing Education by Sex and Race

Education	Black		Non-Black		Total
	M	F	M	F	
Less than Grade 6	5.1% (10)	3.6 (6)	2.7 (2)	2.4 (2)	3.8 (20)
Grade 6 to Grade 9	22.1% (43)	25.0 (42)	12.0 (9)	6.0 (5)	19.0 (99)
Some high school	38.5% (75)	25.6 (43)	32.0 (24)	18.1 (15)	30.1 (157)
Completed high school	18.5% (36)	24.4 (41)	21.3 (16)	32.5 (27)	23.0 (120)
Some post high school	9.2% (18)	13.7 (23)	18.7 (14)	14.5 (12)	12.9 (67)
University graduate	6.7% (13)	7.7 (13)	13.3 (10)	26.5 (22)	11.1 (58)
Total	100.1% (195)	100.0 (168)	100.0 (75)	100.0 (83)	99.9 (521)

() - Represents number of people.

greatest at the less than 25 years groups. Non-Blacks in the prime age group also show the highest levels of employment.

Examination of employment status by education levels (Table 2c) shows highest levels of unemployment at the lower levels of educational attainment for both populations. Blacks in the higher educational level are slightly more likely to be unemployed than non-Blacks at the same level.

Table 3 shows the relationship of education and sex and race. Black females tend to have achieved higher levels of educational attainment than their male counterparts. Black males are more likely not to have completed high school than females. Approximately 43 percent of the Black population have completed high school and about 14 percent are university graduates. Non-Black females are more likely to have higher levels of educational attainment than the males, especially at the university level. Non-Black males are also more likely not to have completed high school than the females. Overall the non-Black population, male and female, tend to have higher levels of educational attainment than Blacks.

Analysis of education levels by age shows Blacks in the prime age group being more likely to have completed a university degree than any other Black age group. Non-Blacks in the prime age group are only slightly more likely to have completed a university degree than other non-Blacks in the less than 25 years of age group. This Table also illustrates the generally higher levels of educational attainment amongst the non-Black population.

Table 3b
Sample Nova Scotian Population Showing Education Level
by Age and Race

Education	Black			Non-Black			Total
	Less than 25 yrs	25-54 years	Over 55 years	Less than 25 yrs	25-54 years	Over 55 years	
Less than Grade 6	3.3% (5)	2.6 (4)	11.5 (7)	0.0 (0)	1.5 (1)	13.6 (3)	3.8 (20)
Grade 6 to Grade 9	15.2% (23)	21.1 (32)	50.8 (31)	5.7 (4)	6.1 (4)	27.3 (6)	19.2 (100)
Some high school	40.4% (61)	28.9 (44)	21.3 (13)	21.4 (15)	24.2 (16)	36.4 (8)	30.1 (157)
Completed high school	23.8% (36)	25.0 (38)	4.9 (3)	32.9 (23)	25.8 (17)	13.6 (3)	23.0 (120)
Some post high school	13.9% (21)	11.8 (18)	3.3 (2)	22.9 (16)	15.2 (10)	0.0 (0)	12.8 (67)
University graduate	3.3% (5)	10.5 (16)	8.2 (5)	17.1 (12)	27.3 (18)	9.1 (2)	11.1 (58)
Total	99.9% (151)	99.9 (152)	100.0 (61)	100.0 (70)	100.1 (66)	100.0 (22)	100.0 (522)

() - Represents number of people.

Table 3c
Sample Nova Scotian Population Showing Education by
Employment Status, Race and Sex

Education	Black				Non-Black				
	Employed		Unemployed		Employed		Unemployed		Total
	M	F	M	F	M	F	M	F	
Less than grade 6	6.3% (7)	3.8 (3)	3.8 (3)	3.6 (3)	0.0 (0)	0.0 (0)	8.0 (2)	5.6 (2)	3.9 (20)
Grade 6 to grade 9	17.1% (19)	13.9 (11)	27.8 (22)	33.7 (28)	4.0 (2)	0.0 (0)	28.0 (7)	13.9 (5)	18.4 (94)
Some high school	33.3% (37)	17.7 (14)	44.3 (35)	34.9 (29)	28.0 (14)	12.8 (6)	40.0 (10)	25.0 (9)	30.2 (154)
Completed high school	20.7% (23)	34.2 (27)	16.5 (13)	16.9 (14)	24.0 (12)	38.3 (18)	16.0 (4)	25.0 (9)	23.5 (120)
Some post high school	12.6% (14)	16.5 (13)	5.1 (4)	9.6 (8)	24.0 (12)	19.1 (9)	8.0 (2)	8.3 (3)	12.7 (65)
University graduate	9.9% (11)	13.9 (11)	2.5 (2)	1.2 (1)	20.0 (10)	29.8 (14)	0.0 (0)	22.2 (8)	11.2 (57)
Total	99.9% (111)	100.0 (79)	100.0 (79)	99.9 (83)	100.0 (50)	100.0 (47)	100.0 (25)	100.0 (36)	99.9 (510)

() - Represents number of people.

Table 3c, below, displays the relationship between education and employment status. Among the Black sample almost 33 percent of unemployed have completed high school and a large number have completed some post-secondary education. The employed tend to be better educated than the unemployed which confirms the relationship of education and increased labour market success.

Among the non-Black sample similar patterns are found with the employed being better educated than the unemployed. Non-Blacks tend to be better educated than Blacks if they are employed but among the unemployed, Black males and non-Black males have similar levels of educational attainment.

Differences between the two groups in occupational status is shown in Table 4 on the following page. The most significant difference between the two groups is at the managerial and professional levels where the non-Blacks show a larger proportion, both males and females, than Blacks (34 percent and 32 percent to 16 percent and 16 percent respectively). Most Black males are employed in skilled or unskilled blue-collar occupations and Black females in clerical and unskilled blue-collar jobs. Non-Blacks (48 percent) are more likely to be employed in blue-collar jobs, however, almost 25 percent of the non-Black sample are employed in managerial

Table 4
Sample Nova Scotian Population Showing Occupation by Race and Sex

Occupation	Black		Non-Black		
	M	F	M	F	Total
Clerical	5.2% (6)	20.6 (22)	2.2 (1)	24.6 (15)	13.3 (44)
Unskilled	27.0% (31)	20.6 (22)	17.0 (8)	16.4 (10)	21.5 (71)
Skilled	36.5% (42)	19.6 (21)	31.9 (15)	9.8 (6)	25.5 (84)
Technical	14.8% (17)	1.9 (2)	12.8 (6)	0.0 (0)	7.6 (25)
Managerial	4.4% (5)	6.5 (7)	23.4 (11)	4.9 (3)	7.9 (26)
Professional	12.2% (14)	10.3 (11)	10.6 (5)	27.9 (17)	14.2 (47)
Homemaker	0.0% (0)	20.6 (22)	2.2 (1)	16.4 (10)	10.0 (33)
Total	100.1% (115)	100.1 (107)	100.1 (47)	100.0 (61)	100.0 (330)

() - Represents number of people.

Table 5
Sample Nova Scotian Population Showing Sources of Income by Age and Race

Chief source of income	Black			Non-Black			Total
	Less Than 25 yrs.	25-54 years	Over 55 years	Less than 25 yrs.	25-54 years	Over 55 years	
Full time work	39.0% (48)	64.6 (93)	44.6 (25)	44.4 (28)	69.4 (43)	18.2 (4)	51.3 (241)
Part time work	17.1% (21)	9.7 (14)	3.6 (2)	23.8 (15)	9.7 (6)	9.1 (2)	12.8 (60)
Unemployment	13.8% (17)	9.0 (13)	3.6 (2)	3.2 (2)	3.2 (2)	9.1 (2)	8.1 (38)
General welfare	4.1% (5)	2.1 (3)	3.6 (2)	0.0 (0)	1.6 (1)	0.0 (0)	2.3 (11)
Family benefits	7.3% (9)	6.3 (9)	8.9 (5)	0.0 (0)	1.6 (1)	4.5 (1)	5.3 (25)
Other	18.7% (9)	8.3 (9)	35.7 (5)	28.6 (18)	14.5 (9)	59.1 (13)	20.2 (95)
Total	100.0% (123)	100.0 (144)	100.0 (56)	100.0 (63)	100.0 (62)	100.0 (22)	100.0 (470)

() - Represents number of people.

positions. Non-Black females show a large proportion (over 25 percent) employed in professional occupations. Apart from these differences the two populations are similar.

Respondent's source of income by age and race (Table 5) shows that in the less than 25 years group only 39 percent are employed full time, whereas 65 percent of the prime age group are in full time employment. A similar picture emerges for the non-Black sample but they are less likely to be unemployed. The Other category in this Table is comprised of those who are in receipt of various pensions, homemakers, students, those who are "living off family" and those who would "rather not say."

Analysis of source of income by sex (Table 5b) on the following page, shows that Black males are more likely to be employed full time, to have part time employment and to be receiving unemployment benefits than Black females. Black females on the other hand are more likely to be in receipt of family benefits and to receive income from Other sources. Non-Black males are more likely to be employed full time than non-Black females, who are more likely to have part time employment.

In summary, the Black representation in this study, though not a probability sample, is large enough to allow inferences to be drawn from the

Table 5b
Sample Nova Scotian Population Showing Sources of Income
by Sex and Race

Chief source of income	Black		Non-Black		Total
	M	F	M	F	
Full time work	56.6% (98)	45.6 (68)	57.7 (41)	44.7 (34)	51.4 (241)
Part time work	12.1% (21)	10.1 (15)	11.3 (8)	19.7 (15)	12.6 (59)
Unemployment	12.1% (21)	7.4 (11)	5.6 (4)	2.6 (2)	8.1 (38)
General welfare	2.3% (4)	4.0 (6)	0.0 (0)	1.3 (1)	2.3 (11)
Family benefits	3.5% (6)	11.4 (17)	0.0 (0)	2.6 (2)	5.3 (25)
Other	13.3% (23)	21.5 (32)	25.4 (18)	28.9 (22)	20.3 (95)
Total	99.9% (173)	100.0 (149)	100.0 (71)	99.8 (76)	100.0 (469)

() - Represents number of people.

Table 6
Perceived Levels of Discrimination in Nova Scotia by Education* and Race

Perception of discrimination	Black		Non-Black		Total
	Low Education	High Education	Low Education	High Education	
Some** discrimination	58.6% (129)	55.6 (80)	80.4 (45)	75.0 (75)	63.3 (329)
Great deal of discrimination	41.4% (91)	44.4 (64)	19.6 (11)	25.0 (25)	36.7 (191)
Total	100.0% (220)	100.0 (144)	100.0 (56)	100.0 (100)	100.0 (520)

() - Represents number of people.

* Low education level includes all those who have not completed high school and all others are included in the High category.

** Only eight respondents said none. These have been retained in the sample under the rubric some.

data. Since the non-Black representation is also not a probability sample and the small size of the population would make any analysis questionable, its usefulness is solely for comparison purposes.

The overall comparison of these two populations shows the Black segment to have higher levels of unemployment, lower levels of formal education and to be employed in less prestigious occupations. The Black sample tends to be less concentrated in urban areas and to have a higher ratio of males to females. Despite these differences the two samples exhibit roughly similar proportions on most characteristics, especially when one takes into account the much larger non-urban component in the Black sample. In the analyses that follow the sample differences will be controlled for by focussing on percentage differences and by simultaneous control of other variables as warranted.

Perceptions of Discrimination in General

The intent of this study was to ascertain the perceptions of a sample population as to the degree of discrimination against

Blacks, if any, which exists in the criminal justice system of Nova Scotia. To put this into context, respondents were first asked about their perceptions of prejudice and discrimination in general in Nova Scotia. Respondents were asked to what degree they thought racial prejudice and discrimination were a part of life in Nova Scotia. Table 6 shows the perceived levels of discrimination by education (completion of high school as the cut-off point between the low and

Table 6b
Perceived Levels of Discrimination in Nova Scotia by Occupation* and Race

	Black			Non-Black			
	Occupational Status			Occupational Status			
Perception of discrimination	Low	High	Other	Low	High	Other	Total
Some discrimination	58.9% (96)	45.9 (17)	50.0 (11)	80.3 (49)	63.9 (23)	90.0 (9)	62.3 (205)
Great deal of discrimination	41.1% (67)	54.1 (20)	50.0 (11)	19.7 (12)	36.1 (13)	10.0 (1)	37.7 (124)
Total	100.0% (163)	100.0 (37)	100.0 (22)	100.0 (61)	100.0 (36)	100.0 (10)	100.0 (329)

() - Represents number of people.

* Low occupational level includes the traditional blue-collar jobs, High includes professional and managerial and Other includes homemakers, students and pensioners.

Table 6c
Perceived Levels of Discrimination in Nova Scotia by Income* and Race

Perception of discrimination	Black			Non-Black			Total
	Low	Medium	High	Low	Medium	High	
Some discrimination	56.3% (98)	57.0 (86)	70.6 (12)	81.1 (43)	70.8 (46)	72.2 (13)	62.3 (298)
Great deal of discrimination	43.7% (76)	43.0 (65)	29.4 (5)	18.9 (10)	29.2 (19)	27.8 (5)	37.7 (180)
Total	100.0% (174)	100.0 (151)	100.0 (17)	100.0 (53)	100.0 (65)	100.0 (18)	100.0 (478)

() - Represents number of people.

* Low = Less than \$9,999

Med. = \$10,000 to \$19,000

High = Over \$20,000

the high levels) and race. The majority in both populations perceive some discrimination existing. Blacks, however, are about twice as likely as non-Blacks to perceive a great deal existing. There is only a slight effect for education in both groups with the higher education category perceiving more discrimination.

Analysis of perceptions of discrimination by occupational status and race are shown in Table 6b. All traditional blue-collar jobs are included in the low category while the high group includes managerial and professional workers; the other category includes homemakers, pensioners and students. Blacks across all occupational levels are more likely to perceive a great deal of discrimination than non-Blacks. Those in the low category are more likely to perceive some discrimination while those in the high category are more likely to perceive a great deal. Non-Blacks at all occupational levels are more inclined to perceive some discrimination.

Examination of the perceived levels of discrimination by income levels (Table 6c) once again shows Blacks much more likely than non-Blacks to perceive a great deal of discrimination at the low (under \$10,000) and medium (over \$20,000) income category. Non-Blacks at all income levels are most likely to perceive some discrimination; however, it should be noted that a significant number of non-Blacks are also inclined to perceive a great deal of discrimination.

When asked if they felt that discrimination was increasing, decreasing, or remaining the same (Table 7, following page) Blacks at all age levels were more likely to feel that it was remaining the same. To illustrate this point one respondent states:

Table 7
Perceived Change in the Levels of Discrimination by Race and Age

Discrimination	Black			Non-Black			Total
	Less than 25 yrs.	25-54 years	Over 55 years	Less than 25 yrs.	25-54 years	Over 55 years	
Increasing	36.7% (55)	36.3 (53)	23.3 (14)	18.2 (12)	22.6 (14)	10.5 (2)	29.8 (150)
Decreasing	21.3% (32)	22.6 (33)	36.7 (22)	42.4 (28)	32.3 (20)	57.9 (11)	29.0 (146)
The same	42.0% (63)	41.1 (60)	40.0 (24)	39.4 (26)	45.2 (28)	31.6 (6)	41.2 (207)
Total	100.0% (150)	100.0 (146)	100.0 (60)	100.0 (66)	100.1 (62)	100.0 (19)	100.0 (503)

() - Represents number of people.

Table 8
Reasons Given for the Perception that Discrimination in Nova Scotia is Increasing by Race

Why increasing	Black	Non-Black	Total
In rural areas especially	2.5% (3)	15.6 (5)	5.3 (8)
Personal experience	59.2% (71)	53.1 (17)	57.9 (88)
Need for organizations to force change	4.2% (5)	9.4 (3)	5.3 (8)
Less Blacks in good positions	7.5% (9)	3.1 (1)	6.6 (10)
Less opportunities for Blacks	26.7% (32)	18.8 (6)	25.0 (38)
Total	100.1% (120)	100.0 (32)	100.1 (152)

() - Represents number of people.

When I came to Nova Scotia a few years ago I could not believe the way they treated the Natives and the Blacks - ten years later it hasn't changed one bit.

A second respondent states:

I feel the discrimination is always going to be there so it will remain the same because the Black professional ten years ago could get a job, now the door is closed. It is harder for the Black professional to get a managerial position and there is no more opportunity for the Blacks now than when I was younger.

Still more than a third of respondents at the less than 25 years and the 25-54 years categories report that discrimination is increasing. Of those who felt that discrimination was increasing one respondent comments:

Even though its more subtle, discrimination is on the rise because of it being more subtle.

Another respondent states:

Where I work I find nasty notes on my desk all the time calling me niggerlover. I hear racist remarks all the time. I have a girlfriend who is Black and many people don't approve it.

Older Blacks are the most likely to say that discrimination is decreasing and least likely to say that it is increasing. Non-Blacks are even more likely to report that discrimination is decreasing. The least frequent response in all non-Black age groups is that discrimination is increasing. In all age categories Blacks are more likely than non-

Table 8b

Reasons Given for the Perception that Discrimination in Nova Scotia is Decreasing by Race

Why decreasing	Black	Non-Black	Total
Equality now	8.1% (7)	3.6 (2)	6.4 (9)
Public awareness increased	36.0% (31)	49.1 (27)	41.1 (58)
Schools integrated	1.2% (1)	1.8 (1)	1.4 (2)
Younger generation less prejudiced	10.5% (9)	29.1 (16)	17.1 (25)
Personal experience	31.4% (27)	9.1 (5)	22.7 (32)
Laws now in place	7.0% (6)	3.6 (2)	5.7 (8)
More mixing of groups	5.8% (5)	3.6 (2)	5.0 (7)
Total	100.0% (86)	99.9 (55)	99.4 (141)

() - Represents number of people

Blacks to say discrimination is increasing.

Personal experience was the major reason offered by those who felt that discrimination is increasing, both Black and non-Black (Table 8 on previous page). Both populations also chose less opportunities for Blacks as their secondary reason for the increase. A comment from a Black respondent will provide an example of the nature of these experiences:

Department store accused me of shoplifting. They wanted to check my purse. I told them no because I asked them what I stole and they wouldn't answer. I also asked who witnessed this event, and they wouldn't answer this question either so I

wouldn't let them check my purse, so they called the police.

Of those who felt that discrimination was decreasing (Table 8b) for both populations, an increase in public awareness was offered as the most common reason. Blacks were more likely to offer personal experience here as their secondary reason, whereas non-Blacks chose the existence of less prejudice in the younger generation as their second reason. Pertinent comments from respondents include:

Times are changing and people are becoming more open to new ideas;

and another who states:

Blacks are no longer in the background. They are more educated and equipped to make changes.

Respondents who were of the opinion that discrimination was remaining the same (Table 8c, on the following page) felt that old attitudes and prejudices still linger on. This opinion was offered by the majority of both populations. Personal experience was offered by both populations as the second reason. The responses of the Blacks

Table 8c
Reasons Given for the Perception that Discrimination in Nova Scotia is Remaining the Same by Race

Why the Same	Black	Non-Black	Total
Lots of discrimination unnoticed	11.2 (14)	11.8 (6)	11.4 (20)
Still strong in rural areas	0.8% (1)	9.8 (5)	3.4 (6)
Old attitudes, prejudices still linger	60.8% (76)	51.0 (26)	58.0 (102)
Personal experience	20.0% (25)	15.7 (8)	18.8 (33)
People are people	5.6% (7)	3.9 (2)	5.1 (9)
Changes are inconsistent	1.6% (2)	7.8 (4)	3.4 (6)
Total	100.0% (125)	100.0 (51)	100.1 (176)

() - Represents number of people.

Table 9
Perception of Areas of Life in Which Discrimination is Most Often Found by Race and Sex

Areas*	Black		Non-Black		Total
	M	F	M	F	
Education	10.0% (60)	10.7 (62)	12.3 (28)	10.7 (27)	10.7 (177)
Housing	15.0% (90)	14.7 (85)	19.4 (44)	19.4 (49)	16.2 (268)
Employment	28.9% (173)	27.0 (156)	25.6 (58)	25.8 (65)	27.3 (452)
Treatment by police	20.4% (122)	19.4 (112)	18.1 (41)	16.7 (42)	19.2 (317)
By courts	15.5% (93)	15.4 (89)	13.2 (30)	14.3 (36)	15.0 (248)
By social service	10.2% (61)	12.7 (73)	11.5 (26)	13.1 (33)	11.7 (193)
Total	100.0% (599)	99.9 (577)	100.1 (227)	100.0 (252)	100.1 (1655)

() - Represents number of people.
* Multiple responses were allowed.

and non-Blacks to this question are also surprisingly similar.

Considering the area of life where discrimination and prejudice is most common, employment (Table 9) is held by both populations to be where discrimination is most often to be found. Blacks, male and female, chose treatment by the police as the second area of life where discrimination is found, whereas non-Blacks identified housing as the second area. Treatment by the courts is the third most likely area of life in which discrimination is found for Blacks while for non-Blacks treatment by the police is third. There is very little difference between the males and females of either population, in fact there is a surprising similarity between the two populations in these responses. The only area of dissimilarity is that Blacks are more likely to report discrimination and prejudice in the criminal justice system - police and courts - than non-Blacks. As one respondent states:

The police and courts get harder on Blacks than Whites when picked up or in the courtroom;

and a second respondent who states:

I was caught stealing along with my friend who is White and I was treated more badly than he was.

In summary then, the majority of both populations feel that some discrimination exists in the province of Nova Scotia. Blacks are most likely to perceive that a great deal of discrimination exists than non-Blacks. The results of the analysis when education, occupation and income are controlled for show similar patterns between the two populations with those in the higher levels of education and occupation more likely to perceive a great deal of discrimination and occupation showing the greatest impact. Blacks in the younger age groups are most likely to perceive discrimination as increasing while older non-Blacks are most likely to have the perception that it is decreasing.

Personal experience is the basis upon which respondents report an increase of discrimination by both samples, increased public awareness the chief reason for decrease, and the endurance of old attitudes and prejudices the major cited factor for it remaining the same. Employment is held by both populations to be the area of life in which discrimination and prejudice are most likely to be found. The difficulty of Blacks finding employment is expressed in this comment by a respondent:

I cannot find a job even as a dishwasher in any hotels. Once they see I am Black, forget it.

Another respondent states:

A Black man or woman can still only get jobs that the White man allows us to.

Blacks also clearly point to the significance of discrimination in the criminal justice system, the focus to which we now turn.

Table 10
Perception of Discrimination in Treatment by Police by Age and Race

Police Discrimination	Black			Non-Black			Total
	Less than 25 yrs.	25-54 years	Over 55 years	Less than 25 yrs.	25-54 years	Over 55 years	
Yes	66.2% (100)	71.9 (110)	41.0 (25)	62.9 (44)	46.3 (31)	36.4 (8)	60.7 (318)
No	33.8% (51)	28.1 (43)	59.0 (36)	37.1 (26)	53.7 (36)	63.6 (14)	39.3 (206)
Total	100.0% (151)	100.0 (153)	100.0 (61)	100.0 (70)	100.0 (67)	100.0 (22)	100.0 (524)

() - Represents number of people.

Perceptions of Discrimination in the Criminal Justice System

Responses to the previous section of the survey suggest that a large portion of both populations feel that treatment by the police is one area of life in which discrimination is most often found. Blacks are also likely to say that treatment by the courts is an area of significant discrimination. Analysis of the perception of

Table 10b
Perception of Discrimination in Treatment by Police by
Occupational* Status and Race

Police Discrimination	Black			Non-Black			Total
	Low	High	Other	Low	High	Other	
Yes	64.4% (105)	70.3 (26)	86.4 (19)	50.8 (31)	47.2 (17)	27.3 (3)	60.9 (201)
No	35.6% (58)	29.7 (11)	13.6 (3)	49.2 (30)	52.8 (19)	72.7 (8)	39.1 (129)
Total	100.0% (163)	100.0 (37)	100.0 (22)	100.0 (61)	100.0 (36)	100.0 (11)	100.0 (330)

() - Represents number of people.

* Low occupational level includes the traditional blue-collar jobs, High includes professional and managerial, and Other includes homemakers, students and pensioners.

Table 10c
Perception of Discrimination in Treatment by Police by
Source of Income* and Race

Police Discrimination	Black		Non-Black		Total
	Employment	Other	Employment	Other	
Yes	66.0% (134)	64.2 (77)	49.0 (48)	59.2 (29)	61.3 (288)
No	34.0% (69)	35.8 (43)	51.0 (50)	40.8 (20)	38.7 (182)
Total	100.0% (203)	100.0 (120)	100.0 (98)	100.0 (49)	100.0 (470)

() - Represents number of people.

* Employment category includes all those whose income is derived from full or part time employment. The Other category includes pensioners, homemakers, students and those who receive unemployment benefits and government assistance.

discrimination by the police using the variables for age, occupation, source of income, and race are examined in the next series of Tables.

Blacks in the younger and middle-aged categories (Table 10, on previous page) strongly agree that discrimination in treatment by the police exists while older Blacks are more likely to say that there is no discrimination. Non-Blacks in the younger age group clearly concur in the perception that discrimination in treatment by the police exists while those in the middle-aged and older age groups feel that the police show little discrimination. Perhaps the most significant point about Table 10 is how prevalent among all groups is the perception of police discrimination.

The testimony of one respondent states:

I witnessed a fight three years ago in a club downtown - two White guys and a Black guy. When the police came they took the Black guy away

and left the White guys. I could not believe it.

Examination by occupational levels (Table 10b) shows that Blacks at all occupational levels and non-Blacks in the low occupation category agree in their perception that there is discrimination in police treatment. Non-Blacks in the high and other categories are more inclined to perceive no discrimination in treatment by police. A comment by a Black respondent illustrates a relatively common Black viewpoint:

They [the police] seem to still talk down to Blacks as if we really are stupid people.

Table 11
Perception of Discrimination in Treatment by Courts by Age and Race

Court Discrimination	Black			Non-Black			Total
	Less than 25 yrs.	25-54 years	Over 55 years	Less than 25 yrs.	25-54 years	Over 55 years	
Yes	48.3% (73)	58.8 (90)	32.8 (20)	42.9 (30)	46.3 (31)	22.7 (5)	47.5 (249)
No	51.7% (78)	41.2 (63)	67.2 (41)	57.1 (40)	53.7 (36)	77.3 (17)	52.5 (275)
Total	100.0% (151)	100.0 (153)	100.0 (61)	100.0 (70)	100.0 (67)	100.0 (22)	100.0 (524)

() - Represents number of people.

Table 11b
Perception of Discrimination in Treatment by Courts by Occupation* and Race

Court Discrimination	Black			Non-Black			Total
	Low	High	Other	Low	High	Other	
Yes	49.1% (80)	64.9 (24)	63.6 (14)	41.0 (25)	41.7 (15)	18.2 (2)	48.5 (160)
No	50.9% (83)	35.1 (13)	36.4 (8)	59.0 (36)	58.3 (21)	81.8 (9)	51.5 (170)
Total	100.0% (163)	100.0 (37)	100.0 (22)	100.0 (61)	100.0 (36)	100.0 (11)	100.0 (330)

() - Represents number of people.

* Low occupational level includes the traditional blue-collar jobs, High includes professional and managerial, and Other includes housewives, students and pensioners.

Examination of the perception of discrimination by the police by source of income (Table 10c, on previous page) shows strong agreement between those Blacks whose income derives from full or part time employment and those whose income is obtained from other sources (namely pensioners, homemakers, students) and those who receive unemployment benefits and government assistance, that discrimination exists in treatment by the courts. Non-Blacks on the other hand are divided in their perception of discrimination in this arena. Those whose income is derived from employment (51 percent) are more inclined to perceive no discrimination while those whose income is obtained from other sources (59 percent) are more likely to say that there is discrimination in treatment by the police.

A similar analysis for perceived discrimination in treatment by the courts by age

shows strong agreement among the respective Black and non-Black age groups in their perception of discrimination in treatment by the courts (Table 11). About 50 percent in the two younger categories of Blacks and non-Blacks perceive discrimination in this section of the criminal justice system. Only among respondents over 55 years of age, Black and non-Black, did a strong majority contend that there was little discrimination.

Blacks in the high occupation category are most likely to perceive discrimination by the courts while those in the low category are the least likely to perceive it (Table 11b). All occupational categories of non-Blacks are more likely to perceive no discrimination in treatment by the courts, with those in the other occupation category being the most likely to perceive no discrimination.

Analysis of perception of discrimination by source of income shows disagreement between the two populations with Blacks, from

Table 11c
Perception of Discrimination in Treatment by Courts by
Source of Income and Race

Court Discrimination	Black		Non-Black		Total
	Employment*	Other	Employment	Other	
Yes	51.7% (105)	52.5 (63)	39.8 (39)	49.0 (24)	49.1 (231)
No	48.3% (98)	47.5 (57)	60.2 (59)	51.0 (25)	50.9 (239)
Total	100.0% (203)	100.0 (120)	100.0 (98)	100.0 (49)	100.0 (470)

() - Represents number of people.

* Employment category includes all those whose income is derived from full or part time employment. The Other category includes pensioners, homemakers, students and those who receive unemployment benefits and government assistance.

both income categories (52 percent and 53 percent), being more likely to perceive the existence of discrimination and non-Blacks, in both income categories (60 percent and 51 percent), more likely not to perceive any discrimination (Table 11c). As in other Tables a large number of non-Blacks, nevertheless, do perceive the existence of discrimination in treatment by the courts.

Respondents were specifically asked about fairness as regards treatment of Blacks in different sectors of the criminal justice

system (these comparisons are shown in Table 12, on following page). Across all but one age group, for both populations, there is agreement that Blacks are treated less fairly by the police. Blacks are especially likely to hold this view and the younger Blacks are the most likely to be of this opinion. The older age group of both populations, but especially the non-Blacks, are the least likely to perceive differential treatment by the police.

Perceptions of treatment by the courts shows a spread of opinion among the Black population. The largest single response, however, for all Black age groups is "less fairly." As an example of this point of view, one respondent states:

I work in Social Services. I spend a lot of time in and out of courts. Harsher sentences are given to Blacks than to Whites, e.g., Black, age 20, charge, rape, five years imprisonment - did not have a previous record. White, age 47, charge, rape, received three years in jail - had previous record.

Non-Blacks on the other hand are most likely to say that there is no difference in treatment by the courts as the largest percentage of all these age groups are treated the same. A significant number of Blacks perceive very favourable treatment by the courts and a sizeable number of all non-Black age groupings perceive discrimination in the courts.

With respect to treatment by the correctional system the results are quite diverse among the different age groups. Younger and especially middle-aged Blacks are more likely to say that they are treated less fairly. Older Blacks are more likely to say that the races are treated

Table 12

Perception of How Blacks are Treated by Sectors of the Criminal Justice System in Nova Scotia, in Comparison to Non-Blacks, by Age Groups

Fairness	Black			Non-Black		
	Less than 25 yrs.	25-54 years	Over 55 years	Less than 25 yrs.	25-54 years	Over 55 years
By Police						
More fairly	0.7% (1)	1.4 (2)	0.0 (0)	1.5 (1)	3.4 (2)	5.0 (1)
Less fairly	83.1% (123)	80.8 (118)	66.1 (37)	63.1 (41)	51.7 (30)	40.0 (8)
The same	16.2% (24)	17.8 (26)	33.9 (19)	35.4 (23)	44.8 (26)	55.0 (11)
By Courts						
More fairly	27.9% (41)	37.2 (55)	29.6 (16)	3.2 (2)	3.5 (2)	0.0 (0)
Less fairly	48.3% (71)	44.6 (66)	37.0 (20)	34.9 (22)	43.9 (25)	31.6 (6)
The same	23.8% (35)	18.2 (27)	33.3 (18)	61.9 (39)	52.6 (30)	68.4 (13)
By Correctional System						
More fairly	0.8% (1)	0.0 (0)	0.0 (0)	1.6 (1)	3.9 (2)	0.0 (0)
Less fairly	53.4% (70)	68.7 (90)	45.5 (20)	41.0 (25)	49.0 (25)	35.3 (6)
The same	45.8% (60)	31.3 (41)	54.5 (24)	57.4 (35)	47.1 (24)	64.7 (11)

() - Represents number of people.

Table 13

Explanations Given for Why Blacks are Treated Less Fairly by Sectors of the Criminal Justice System in Nova Scotia by Race

Explanations	Black	Non-Black
Statistical support cited	0.0% (0)	2.3 (2)
Personal biases, prejudice in system	54.5% (141)	51.1 (45)
Blacks have disadvantaged background	1.5% (4)	0.0 (0)
Stereotypes in media	5.0% (13)	10.2 (9)
Personal experience	22.4% (58)	28.4 (25)
Blacks picked on by police	15.8% (41)	8.0 (7)
Not enough minority representatives in the system	0.8% (2)	0.0 (0)
Total	100.0% (259)	100.0 (88)
() - Represents number of people.		

the same. Middle-aged non-Blacks have the perception that Blacks are treated less fairly by the correctional system, whereas the younger and older age groups are more

likely to feel that Blacks are treated the same.

The most common explanation given by both populations as to why they have the perception that Blacks are treated less fairly by sectors of the criminal justice system is the existence of personal biases and prejudice in the system (Table 13). Personal experiences are also offered by both populations as the next most common basis for their views. A small group pointed to alleged police harassment.

Perceptions as to whether Native people are treated more fairly than Blacks in sectors of the criminal justice system show that Black males are most likely to feel that there is no dissimilarity in treatment by the police and courts but are uncertain as to whether there is any difference in treatment by the correctional system (Table 14). Black females and non-Blacks, males and females, are most likely to be uncertain about such differential treatment in all sectors of the criminal justice system.

Table 14

Are Natives Treated More Fairly than Blacks by Sectors of the Criminal Justice System by Race and Sex

	Black		Non-Black	
	Male	Female	Male	Female
Natives treated more fairly than Blacks				
By Police				
Yes	10.3% (20)	19.5 (32)	12.0 (9)	15.9 (13)
No	49.2% (96)	39.6 (65)	33.3 (25)	31.7 (26)
Uncertain	40.5% (79)	40.9 (67)	54.7 (41)	52.4 (43)
By Courts				
Yes	10.8% (21)	22.0 (36)	8.0 (6)	17.1 (14)
No	45.6% (89)	35.4 (58)	30.7 (23)	32.9 (27)
Uncertain	43.6% (85)	42.7 (70)	61.3 (46)	50.0 (41)
By Correctional System				
Yes	9.4% (18)	17.8 (29)	5.3 (4)	13.6 (11)
No	41.7% (80)	33.7 (55)	34.7 (26)	30.9 (25)
Uncertain	49.0% (94)	48.5 (79)	60.0 (45)	55.6 (45)

() - Represents number of people.

Table 15

Perception of Involvement with the Criminal Justice System Having a Negative Effect on an Individual's Future by Age and Race

	Black			Non-Black		
	Less than 25 yrs.	25-54 years	Over 55 years	Less than 25 yrs.	25-54 years	Over 55 years
Negative impact						
Yes	95.3% (141)	91.3 (136)	91.5 (54)	94.3 (66)	95.3 (61)	95.5 (21)
No	4.7% (7)	8.7 (13)	8.5 (5)	5.7 (4)	4.7 (3)	4.5 (1)
Total	100.0% (148)	100.0 (149)	100.0 (59)	100.0 (70)	100.0 (64)	100.0 (22)

() - Represents number of people.

Respondents were asked if, in general, they would say that involvement with the criminal justice system is likely to have negative effects on the future of an individual (Table 15). Although the nature of this involvement was not made explicit to the respondents it was intended to mean an interaction which led to a charge and a court appearance with a sentence being passed. Both populations are very strongly in agreement that any such involvement is likely to have negative effects (over 90 percent at each age category).

When asked if these effects would be more harmful to a Black than a non-Black individual the largest percentage of all Black age groups and even about 50 percent of the young and prime age non-Blacks are in agreement that it is most likely to be more harmful for a Black. (Table 16) Older Blacks (95 percent) are most likely to be of this opinion and older non-Blacks (33 percent) are the least likely to feel that involvement with the criminal justice system is more harmful for a Black. A sizeable percentage of non-Blacks are uncertain as to the results of this involvement.

Black males and females have the perception that involvement with the criminal justice system can have serious effects on one's opportunities, especially as regards employment but also in relation to education, obtaining housing and on one's self-esteem

Table 16
Are Those Effects More Harmful for Blacks or Non-Blacks by Age and Race

More harmful for Blacks	Black			Non-Black		
	Less than 25 yrs	25-54 years	Over 55 years	Less than 25 yrs	25-54 years	Over 55 years
Yes	86.8% (125)	88.4 (122)	94.5 (52)	52.3 (34)	46.0 (29)	33.3 (7)
No	2.8% (4)	2.2 (3)	1.8 (1)	27.7 (18)	28.6 (18)	38.1 (8)
Uncertain	10.4% (15)	9.4 (13)	3.6 (2)	20.0 (13)	25.4 (16)	28.6 (6)
Total	100.0% (144)	100.0 (138)	99.9 (55)	100.0 (65)	100.0 (63)	100.0 (21)

() - Represents number of people.

and reputation. Non-Blacks, males and females, are in agreement with this finding except with regard to education where they do not think that involvement with the criminal justice system would have negative effects. They also tend to be more uncertain about effects than Blacks are.

The preceding section has examined perceptions of discrimination in the criminal justice system in Nova Scotia. Analyses of these perceptions when age, occupation, source of

income, and race are controlled for show a consistent pattern of Blacks perceiving discrimination, especially in their treatment by police. Older Blacks are consistently more likely to feel that there is no difference in treatment. Non-Blacks are consistently more likely than Blacks to perceive that no discrimination exists. But perhaps the most striking fact is how plentiful and widespread is the perception of discrimination.

Comparison of Blacks' and non-Blacks' perceptions of treatment, by various sectors of the criminal justice system, shows a clear consensus, when age is controlled for, that Blacks are treated less fairly. A difference of perception exists, however, with respect to treatment by the courts as Blacks strongly feel that they are treated less fairly while non-Blacks are most likely to say that Blacks are treated the same.

Both populations are mainly uncertain as to whether Native people are treated more or less fairly than Blacks. Few Blacks and even fewer non-Blacks think Native persons receive preferential treatment. There is strong agreement, however, that involvement with the criminal justice system has negative effects on an individual's future and that this effect is likely to be more harmful for a Black than others. In both populations these effects are perceived as being most harmful in the areas of education, employment and obtaining housing (Table 17).

Table 17

Areas of Life in Which Opportunities Would be Most Seriously Affected by Involvement with the Criminal Justice System by Race and Sex

Serious Negative Impact	Black		Non-Black	
	Male	Female	Male	Female
Education				
Yes	65.4% (100)	73.2 (90)	19.7 (13)	32.4 (24)
No	20.3% (31)	13.0 (16)	47.0 (31)	33.8 (25)
Uncertain	14.4% (22)	13.8 (17)	33.3 (22)	33.8 (25)
Employment				
Yes	95.4% (167)	95.9 (139)	92.9 (65)	92.1 (70)
No	2.9% (5)	0.7 (1)	1.4 (1)	1.3 (1)
Uncertain	1.7% (3)	3.4 (5)	5.7 (4)	6.6 (5)
Obtaining Housing				
Yes	66.7% (90)	68.6 (83)	56.5 (39)	50.7 (38)
No	11.9% (16)	9.9 (12)	23.2 (16)	16.0 (12)
Uncertain	21.5% (29)	21.5 (26)	20.3 (14)	33.3 (25)
Self-Esteem and Reputation				
Yes	82.7% (273)	88.3 (235)	84.6 (115)	82.6 (123)
No	8.2% (27)	1.9 (5)	3.7 (5)	4.0 (6)
Uncertain	9.1% (30)	9.8 (26)	11.8 (16)	13.4 (20)

() - Represents number of people.

Personal Experiences with the Criminal Justice System

Respondents were asked if they had ever had personal contact with the criminal justice system (Table 18). The type of contact was not specified on the questionnaire, although a later question did ask the respondents to supply an example of the kind of experience they had.

Table 18
Personal Contact with the Criminal Justice System by Sex and Race

Personal contact	Black		Non-Black		
	Male	Female	Male	Female	Total
Yes	45.1% (88)	26.2 (44)	56.8 (42)	34.1 (28)	38.9 (202)
No	54.9% (107)	73.8 (124)	43.2 (32)	65.9 (54)	61.1 (317)
Total	100.0% (195)	100.0 (168)	100.0 (74)	100.0 (82)	100.0 (519)

() - Represents number of people.

Table 18b
Personal Contact with the Criminal Justice System by Age and Race

Personal contact	Black			Non-Black			Total
	Less than 25 yrs.	25-54 years	Over 55 years	Less than 25 yrs.	25-54 years	Over 55 years	
Yes	43.7% (66)	34.4 (52)	23.0 (14)	42.6 (29)	49.3 (33)	38.1 (8)	38.9 (202)
No	56.3% (85)	65.6 (99)	77.0 (47)	57.4 (39)	50.7 (34)	61.9 (13)	61.1 (317)
Total	100.0% (151)	100.0 (151)	100.0 (61)	100.0 (68)	100.0 (67)	100.0 (21)	100.0 (519)

() - Represents number of people.

Table 19
Section of the Criminal Justice System Involvement Took Place with by Race and Sex

Section	Black		Non-Black		
	Male	Female	Male	Female	Total
Police	35.6% (64)	44.4 (28)	37.5 (27)	45.9 (17)	38.6 (136)
RCMP	20.6% (37)	19.0 (12)	25.0 (18)	24.3 (9)	21.6 (76)
Courts	28.9% (52)	30.2 (19)	27.8 (20)	29.7 (11)	29.0 (102)
Corrections	15.0% (27)	6.3 (4)	9.7 (7)	0.0 (0)	10.8 (38)
Totals	100.1% (180)	99.9 (63)	100.0 (72)	99.9 (37)	100.0 (352)

() - Represents number of people.

Contact or involvement then has been defined in a general way and can range from highway spot checks to acting as a witness or serving as a juror. In a small number of cases contact has been of a vicarious nature through family members and friends.

Black and non-Black males are much more likely than females to have had personal contact with the criminal justice system. Non-Black males are more likely than Black males to have had contact. Black females report the least contact.

Examination of these data by age groups shows that among Blacks, respondents less than 25 years old are the most likely to have had contact with a sector of the criminal justice system, whereas Blacks over the age of 55 years are the least likely to have had any sort of contact (Table 18b). Non-Blacks in the prime age group are the most likely of all non-Blacks to have had contact. Indeed they report much more contact than their Black counterparts (*i.e.*, 49 percent to 34 percent).

Table 19 presents data on involvement by race and sex. Combining the police and RCMP categories, it is clear that the majority of all race and sex groups have had contact with the police. Surprisingly there is more difference by sex than by race and perhaps even more surprisingly, more females than males, percentage-wise, report some contact with the police.

Table 19b

Section of the Criminal Justice System Involvement Took Place with
by Age and Race

Section*	Black			Non-Black			Total
	Less than 25 yrs.	25-54 years	Over 55 years	Less than 25 yrs.	25-54 years	Over 55 years	
Police	40.8% (51)	33.0 (33)	44.4 (8)	33.3 (13)	41.7 (25)	60.0 (6)	38.6 (136)
RCMP	16.0% (20)	24.0 (24)	27.8 (5)	30.8 (12)	21.7 (13)	20.0 (2)	21.6 (76)
Courts	29.6% (37)	29.0 (29)	27.8 (5)	28.2 (11)	31.7 (19)	10.0 (1)	29.0 (102)
Corrections	13.6% (17)	14.0 (14)	0.0 (0)	7.7 (3)	5.0 (3)	10.0 (1)	10.8 (38)
Total	100.0% (125)	100.0 (100)	100.0 (18)	100.0 (39)	100.1 (60)	100.0 (10)	100.0 (352)

() - Represents number of people.

* Multiple responses were made to this question in some cases and so there is overlap from section to section.

Table 19c

Section of the Criminal Justice System Involvement Took Place with
by Education and Race

Section*	Black		Non-Black		Total
	Low Education	High Education	Low Education	High Education	
Police	37.3% (59)	38.8 (33)	40.5 (17)	39.4 (26)	38.5 (135)
RCMP	16.5% (26)	27.1 (23)	19.0 (8)	28.8 (19)	21.7 (76)
Courts	30.4% (48)	27.1 (23)	28.6 (12)	27.3 (16)	28.8 (101)
Corrections	15.8% (25)	7.1 (6)	11.9 (5)	4.5 (3)	11.1 (39)
Totals	100.0% (158)	100.1 (85)	100.0 (42)	100.0 (66)	100.1 (351)

() - Represents number of people.

* Multiple responses were made to this question in some cases and so there is overlap from section to section.

Roughly 30 percent of all groups report contact with the court sector. It is only with respect to corrections that race becomes a differentiating factor.

Significantly proportionately more Black males report contact here as do a few Black females. This latter finding concerning corrections suggests that the racial groups will differ in the type of contact they report having with the criminal justice system.

When involvement with the criminal justice system is related to race and age the findings mirror closely the patterns discussed above (Table 19b). For all groupings the structure of involvement is the same: much involvement with the police (about 60 percent if police and RCMP are combined), significant contact with the courts (about 30 percent) and, apart from young and prime age Blacks, minimal involvement with the correctional system. Among Blacks the similarity in involvement, except for corrections, is striking for all age groups and even in the case of corrections young and prime age Blacks report similar levels of involvement. Among non-Blacks the involvement patterns are similar for the young and prime age while the small number of respondents 55 years of age and over makes assessment of their

involvement rather problematic. The only real difference between Black and non-Black age groups is that Blacks have more involvement with corrections.

Table 19d
Section of the Criminal Justice System Involvement Took Place with
by Occupation* and Race

Section**	Black			Non-Black			Total
	Low	High	Other	Low	High	Other	
Police	36.8% (32)	37.5 (12)	20.0 (2)	38.3 (18)	39.1 (9)	100.0 (1)	37.0 (74)
RCMP	24.1% (21)	28.1 (9)	40.0 (4)	25.5 (12)	26.1 (6)	0.0 (0)	26.0 (52)
Courts	27.6% (24)	28.1 (9)	30.0 (3)	29.8 (14)	30.4 (7)	0.0 (0)	28.5 (57)
Corrections	11.5% (10)	6.3 (2)	10.0 (1)	6.4 (3)	4.3 (1)	0.0 (0)	8.5 (17)
Total	100.0% (87)	100.0 (32)	100.0 (10)	100.0 (47)	99.9 (23)	100.0 (1)	100.0 (200)

() - Represents number of people.

* Low occupation level includes the traditional blue-collar jobs, High includes professional and managerial and Other includes homemakers, students and pensioners.

** Multiple responses were made to this question in some cases and so there is overlap from section to section.

Table 20
Example* of Involvement with the Criminal Justice System by Sex and Race

Type of involvement	Black		Non-Black		Total
	Male	Female	Male	Female	
Non-traffic	44.6% (37)	50.0 (19)	44.7 (17)	4.0 (1)	40.2 (74)
Witness	3.6% (3)	0.0 (0)	10.5 (4)	36.0 (9)	8.7 (16)
Hassled by police	26.5% (22)	15.8 (6)	0.0 (0)	4.0 (1)	15.8 (29)
Traffic charge	18.1% (15)	23.7 (9)	26.3 (10)	20.0 (5)	21.2 (39)
Spot check	6.0% (5)	7.9 (3)	18.4 (7)	28.0 (7)	12.0 (22)
Jury	1.2% (1)	0.0 (0)	0.0 (0)	4.0 (1)	1.1 (2)
Through family or friends	0.0% (0)	2.6 (1)	0.0 (0)	4.0 (1)	1.1 (2)
Total	100.0% (83)	100.0 (38)	99.9 (38)	100.0 (25)	100.1 (184)

() - Represents number of people.

* Multiple responses allowed.

Table 19c results, on previous page, focussing on the impact of education, are similar to those reported for age and sex. Apart from corrections there is virtually no difference between Blacks and non-Blacks of low and high education. And the corrections difference between Blacks and non-Blacks is almost completely accounted for (about two-thirds) by differences in educational levels - that is low educated Blacks and non-Blacks are alike and high educated Blacks and non-Blacks are alike.

A similar pattern emerges when occupation is included in the analysis (Table 19d). The high occupation category of both populations is more likely to have had involvement with all sectors of the criminal justice system, with the exception of corrections. Those in the other category, which includes a high number of pensioners, are the least likely of both populations to have been in contact with any sector of the system. Those in the low occupation category of both populations are more likely to have been involved with the corrections sector.

In Table 20, among those reporting an example of their involvement, Black males and females show a similarity in the types of interaction they have had with the criminal justice system. Black males are most likely to have had a non-traffic charge/incident, to have been "hassled by the police" and to have received a traffic charge in

Table 21
How Treated When Involvement Occurred With the Criminal Justice System
by Race and Sex

Treatment	Black		Non-Black		Total
	Male	Female	Male	Female	
Extremely well	11.4% (10)	19.0 (8)	24.4 (10)	37.5 (9)	19.0 (37)
Fairly well	34.1% (30)	21.4 (9)	56.1 (23)	37.5 (9)	36.4 (71)
Somewhat unfairly	22.7% (20)	23.8 (10)	14.6 (6)	20.8 (5)	21.0 (41)
Very unfairly	31.8% (28)	35.7 (15)	4.9 (2)	4.2 (1)	23.6 (46)
Total	100.0% (88)	99.9 (42)	100.0 (41)	100.0 (24)	100.0 (195)

() - Represents number of people

that order. Black females are also most likely to report having had a non-traffic involvement, having received a traffic charge and to have been "hassled by the police". Among non-Blacks the sexes are more dissimilar, with the males reporting mostly non-traffic involvement and then traffic charges and spot checks. Non-Black females are most likely to have acted as a witness, to have been involved in spot check and to have received a traffic charge.

There are some striking differences between the two

populations in so far as hassling by the police is only reported by Blacks (of both sexes). The interaction of non-Blacks with the criminal justice system tends to have more of a positive nature, for example acting as witnesses. A surprising number of Black females report having involvements of a non-traffic charge/incident.

Table 21 provides a description of how those who had some involvement with the criminal justice system were treated. There is a striking difference between the two populations in their responses to this question. Black males (55 percent) and Black females (60 percent) are most likely to report being treated somewhat or very unfairly.

As an example of this type of situation one respondent states:

I was one of four women who were charged with shoplifting. I was outside when the incident happened. I refused to give any information because I wasn't informed of my rights, so I was jailed.

Non-Black males (81 percent) and non-Black females (75 percent) on the other hand are most likely to report being treated extremely or fairly well.

Respondents were asked if they were advised of their legal rights when they were charged. Since this is a contingency-type question the number of respondents drops off considerably. Of those answering this question, Blacks are significantly more likely to report that they were not advised of their legal rights when charged than non-Blacks (Table 22). They are also more likely to report that they were not advised of their right to speak to a lawyer, to apply for

Table 22
Advised of Legal Rights by Age and Race

Advised	Black			Non-Black		
	Less than 25 yrs.	25-54 years	Over 55 years	Less than 25 yrs.	25-54 years	Over 55 years
Advised Legal Rights						
Yes	70.2% (33)	47.1 (16)	66.7 (6)	87.5 (7)	77.8 (7)	100.0 (1)
No	29.8% (14)	52.9 (18)	33.3 (3)	12.5 (1)	22.2 (2)	0.0 (0)
Right to Speak to Lawyer						
Yes	81.3% (26)	75.0 (15)	100.0 (5)	100.0 (6)	57.1 (4)	100.0 (1)
No	18.8% (6)	25.0 (5)	0.0 (0)	0.0 (0)	42.9 (3)	0.0 (0)
Right to Apply for Legal Aid						
Yes	67.7% (21)	66.7 (12)	66.7 (2)	80.0 (4)	33.3 (2)	100.0 (1)
No	32.3% (10)	33.3 (6)	33.3 (1)	20.0 (1)	66.7 (4)	0.0 (0)
Right to Legal Counsel						
Yes	63.3% (19)	66.7 (12)	100.0 (4)	100.0 (6)	62.5 (5)	100.0 (1)
No	36.7% (11)	33.3 (6)	0.0 (0)	0.0 (0)	37.5 (3)	0.0 (0)

() - Represents number of people.

legal aid or their right to legal counsel. Since the numbers in this Table are very small any analysis can only be suggestive.

Respondents were asked, if charged, were they pressured to plead guilty to an offence to which they felt they were innocent (Table 23). The majority of both populations report not being pressured to plead guilty. A minority of both populations, however, state that they were pressured, especially Blacks. Again, however, the small size of the sample here makes any analysis unreliable.

In respect to being pressured one non-Black respondent noted that:

I was pressured to say that my friend, who was Black and was arrested with me, was the one who was bringing drugs to the school even though it was not him. They could not believe me. It was our phys. ed. teacher.

When asked "pressured by whom" the largest percentage of both populations at all age groups report that they were pressured by the police (Table 24). The numbers in this Table are generally too small to be significant for further analysis.

Table 23
Pressured to Plead Guilty by Race and Age

Pressure	Black			Non-Black			Total
	Less than 25 yrs.	25-54 years	Over 55 years	Less than 25 yrs.	25-54 years	Over 55 years	
Yes	31.1% (14)	26.7 (8)	12.5 (1)	20.0 (2)	41.7 (5)	0.0 (0)	28.3 (30)
No	68.9% (31)	73.3 (22)	87.5 (7)	80.0 (8)	58.3 (7)	100.0 (1)	71.7 (76)
Total	100.0% (45)	100.0 (30)	100.0 (8)	100.0 (10)	100.0 (12)	100.0 (1)	100.0 (106)

() - Represents number of people.

Table 24
Section of the Criminal Justice System Which Pressured Defendant to Plead Guilty by Race and Age

Section	Black			Non-Black			Total
	Less than 25 yrs.	25-54 years	Over 55 years	Less than 25 yrs.	25-54 years	Over 55 years	
Police	85.7% (12)	66.7 (8)	100.0 (1)	50.0 (2)	60.0 (3)	0.0 (0)	72.2 (26)
Prosecutor	0.0% (0)	16.7 (2)	0.0 (0)	25.0 (1)	0.0 (0)	0.0 (0)	8.3 (3)
Own lawyer	14.3% (2)	8.3 (1)	0.0 (0)	25.0 (1)	20.0 (1)	0.0 (0)	13.9 (5)
Police and Prosecutor	0.0% (0)	8.3 (1)	0.0 (0)	0.0 (0)	20.0 (1)	0.0 (0)	5.6 (2)
Total	100.0% (14)	100.0 (12)	100.0 (1)	100.0 (4)	100.0 (5)	0.0 (0)	100.0 (36)

() - Represents number of people.

Table 25
Effects of Involvement with the Criminal Justice System by Age and Race

Involvement	Black			Non-Black			Total
	Less than 25 yrs.	25-54 years	Over 55 years	Less than 25 yrs.	25-54 years	Over 55 years	
Positive	33.3% (21)	30.6 (15)	46.2 (6)	38.1 (8)	52.0 (13)	20.0 (1)	36.4 (64)
Negative	44.4% (28)	53.1 (26)	38.5 (5)	28.6 (6)	28.0 (7)	40.0 (2)	42.0 (74)
Uncertain	22.2% (14)	16.3 (8)	15.4 (2)	33.3 (7)	20.0 (5)	40.0 (2)	21.6 (38)
Total	99.9% (63)	100.0 (49)	100.1 (13)	100.0 (21)	100.0 (25)	100.0 (5)	100.0 (176)

() - Represents number of people.

In an effort to assess the effects of their experience with the criminal justice system respondents were asked to state whether the experience was positive or negative (Table 25). Some members of both populations state that the effects of their involvement with the criminal justice system were positive while an approximately equal number report that the effects were negative. Younger and middle-aged Blacks are most likely to report the effects as being negative while older Blacks are slightly more likely to report them as being positive. Non-Blacks, in contrast to the Blacks, are more likely to report the effects as being positive.

As an example of those who found the effects positive we cite a respondent who states:

The scare I got from going through the system made me want to stay away from it;

and another who remarked:

Had to take a driver-ed course - it reinforced the reason for not speeding.

Inclusion of education in the analysis shows that Blacks in the high and low categories are most likely to report the effects as being negative (Table 25b). Non-Blacks in the low education category are most likely to report the effects as being negative but those in the high category are most likely to report them as being positive. There is a considerable difference between the Blacks and the non-Blacks in the high education group. The overall pattern of this Table is suggestive of a more negative experience for Blacks when involvement with the criminal justice system occurs.

Table 25b
Effects of Involvement with the Criminal Justice System by Education* and Race

Involvement	Black		Non-Black		Total
	Low Education	High Education	Low Education	High Education	
Positive	33.7% (27)	33.3 (15)	27.8 (5)	53.1 (17)	36.6 (64)
Negative	42.5% (34)	55.6 (25)	44.4 (8)	18.8 (6)	41.7 (73)
Uncertain	23.8% (19)	11.1 (5)	27.8 (5)	28.1 (9)	21.7 (38)
Total	100.0% (80)	100.0 (45)	100.0 (18)	100.0 (32)	100.0 (175)

() - Represents number of people.

*Low education level includes all those who have not completed high school and all others are included in the High category.

Table 26
Reasons for the Effects of Involvement with the Criminal Justice System by Sex and Race

Reasons	Black		Non-Black		Total
	Male	Female	Male	Female	
Positive change in life style	15.9% (11)	29.7 (11)	22.2 (6)	18.2 (2)	20.8 (30)
Positive other	21.7% (15)	16.2 (6)	29.6 (8)	45.5 (5)	23.6 (34)
Negative Justice not served	13.0% (9)	16.2 (6)	11.1 (3)	9.1 (1)	13.2 (19)
Negative because of treatment	24.6% (17)	13.5 (5)	3.7 (1)	9.1 (1)	16.7 (24)
Negative other	24.6% (17)	24.3 (9)	33.3 (9)	18.2 (2)	25.7 (37)
Total	99.8% (69)	99.9 (37)	99.9 (27)	100.1 (11)	100.0 (144)

() - Represents number of people.

The highest proportion of Black males state that the reason they found the effects of their involvement to be negative is because of the treatment they received or for other reasons (Table 26). Black females on the other hand state they found the effects to be positive because of the change it made to their life-style. Non-Black males' responses are well distributed, both positively and negatively, while non-Black females are most likely of any subgroup to report that the effects were positive.

The pattern of this Table shows that, overall, Blacks are more negative than positive, whereas the non-Blacks are more positive than negative. The large "other" category makes it difficult to analyze the negatives but if we assume a random spread then the two populations also differ in so far as the complaint of the Blacks is more likely to be concerned with treatment and that of the non-Blacks to be concerned with the issue of justice.

When asked to indicate the extent of their awareness of legal rights when arrested the largest percentage of both populations, at all age groups, indicate that they had some knowledge.

(Table 27) There is no difference

between the two populations when age is controlled for as the age categories break down similarly for Blacks and non-Blacks. The over 55 years category is the only one which is slightly different - they are most likely to report being the least aware, both Black and non-Black.

Inclusion of education in this analysis shows that those Blacks in the high education category are more likely to report being very

Table 27
Extent Aware of Legal Rights by Age and Race

Awareness	Black			Non-Black			Total
	Less than 25 yrs.	25-54 years	Over 55 years	Less than 25 yrs.	25-54 years	Over 55 years	
Very aware	20.0% (30)	28.1 (43)	16.4 (10)	17.4 (12)	25.4 (16)	13.6 (3)	22.0 (114)
Some knowledge	58.0% (87)	51.0 (78)	42.6 (26)	63.8 (44)	54.0 (34)	50.0 (11)	54.1 (280)
Very little knowledge	19.3% (29)	19.0 (29)	32.8 (20)	18.8 (13)	15.9 (10)	27.3 (6)	20.7 (107)
No knowledge	2.7% (4)	2.0 (3)	8.2 (5)	0.0 (0)	4.8 (3)	9.1 (2)	3.3 (17)
Total	100.0% (150)	100.1 (153)	100.0 (61)	100.0 (69)	100.1 (63)	100.0 (22)	100.1 (518)

() - Represents number of people.

aware while Blacks in the low category are more likely to report having a lesser awareness of their rights. A similar pattern holds for the non-Black population with those in the high education category being more aware of their legal rights than those in the low category.

In summary then the reports of personal experiences with the criminal justice system show that Blacks are more likely than non-Blacks to have been involved with some sector of the criminal justice system and that this involvement is more likely to be of a non-traffic nature. Both

groups are most likely to have been involved with the police and Blacks, male and female, are more likely than non-Blacks to have been involved with the correctional system and therefore more likely to have spent time in a penal institution. Blacks are more likely than non-Blacks to report being "hassled by the police" as an example of their involvement.

When the variables of age, education and occupation were entered into the analyses, Blacks showed a higher degree of involvement at all age levels than non-Blacks. Blacks in the low education category are more likely than Blacks in the high education category to have been involved with all sectors of the system while non-Blacks in the high education category are more likely than non-Blacks in the low category to have been involved with the police, the RCMP, and the courts. Analysis by occupation has shown Blacks and non-Blacks in the low category to be most likely to have had contact with all sectors of the system.

While some Blacks report being treated very unfairly by the sector of the criminal justice system with which they had contact, others report being treated fairly well. Black females are most likely to report being treated very unfairly. Overall Blacks are more likely to report negative treatment and non-Blacks to report positive treatment.

Blacks are significantly more likely than non-Blacks to state that they were not advised of their legal rights when charged. They are also more likely to have been pressured by the police and to have found the effects of this involvement to be negative.

Table 28
Aspects of the Criminal Justice System Perceived to be Interested in
Responding to Community Requests for Change by Age and Race

Interested	Black			Non-Black		
	Less than 25 yrs.	25-54 years	Over 55 years	Less than 25 yrs.	25-54 years	Over 55 years
By Police						
Yes	33.1% (50)	32.7 (49)	34.4 (21)	46.4 (32)	47.7 (31)	50.0 (11)
No	31.8% (48)	29.3 (44)	21.3 (13)	21.7 (15)	29.2 (19)	13.6 (3)
Uncertain	35.1% (53)	38.0 (57)	44.3 (27)	31.9 (22)	23.1 (15)	36.4 (8)
By Courts						
Yes	29.1% (44)	28.2 (42)	24.6 (15)	29.0 (20)	34.4 (22)	36.4 (8)
No	28.5% (43)	28.9 (43)	19.7 (12)	27.5 (19)	32.8 (21)	18.2 (4)
Uncertain	42.4% (64)	43.0 (64)	55.7 (34)	43.5 (30)	32.8 (21)	45.5 (10)
By Correctional System						
Yes	26.0% (39)	25.9 (38)	16.7 (10)	27.5 (19)	32.8 (21)	40.9 (9)
No	26.7% (40)	25.2 (37)	18.3 (11)	24.6 (17)	28.1 (18)	22.7 (5)
Uncertain	47.3% (71)	49.0 (72)	65.0 (39)	47.8 (33)	39.1 (25)	36.4 (8)

() - Represents number of people.

For respondents who found the effects to be negative, the treatment they received is most likely the reason for this effect. The change that occurred in their life-style is one reason offered by respondents who found the effects positive. The largest proportion of both populations report having some knowledge of their legal rights. Middle-aged Blacks and those in the high education category are most likely to report being very aware of their legal rights. Younger Blacks and those in the low education category are most likely to report having very little knowledge of their rights.

Suggestions for Changes to the Criminal Justice System

The final section of the survey questionnaire was concerned with eliciting suggestions and ideas that could be used to improve the present situation in the criminal justice system. Respondents were asked, in their opinion, which parts of the

system - police, courts or correctional system - would be interested in responding to community requests for change, to supply the reason for their choice and finally, to suggest changes that could bring about an improvement.

The police are seen as the sector of the criminal justice system which would be most likely to respond to community requests for change by both populations at all age groups (Table 28). Blacks at all age levels show a consensus, as do non-Blacks, but while about 48 percent of the latter see the police as potentially responsive to the community only roughly 33 percent of the Blacks share that view. Non-Blacks at all age groups have a stronger perception that the police would respond to requests for change.

As the question shifted to the courts and then the correctional system the degree of uncertainty about responsiveness to the

Table 28b

Aspects of the Criminal Justice System Perceived to be Interested in Responding to Community Requests for Change by Sex and Race

Interested	Black		Non-Black	
	Male	Female	Male	Female
By Police				
Yes	35.2% (68)	31.0 (52)	43.2 (32)	51.2 (42)
No	32.6% (63)	25.0 (42)	33.8 (25)	14.6 (12)
Uncertain	32.1% (62)	44.0 (74)	23.0 (17)	34.1 (28)
By Courts				
Yes	29.9% (58)	25.9 (43)	29.7 (22)	34.6 (28)
No	29.4% (57)	24.7 (41)	37.8 (28)	19.8 (16)
Uncertain	40.7% (79)	49.4 (82)	32.4 (24)	45.7 (37)
By Correctional System				
Yes	24.6% (47)	24.2 (40)	25.7 (19)	37.0 (30)
No	28.8% (55)	20.0 (33)	37.8 (28)	14.8 (12)
Uncertain	46.6% (89)	55.8 (92)	36.5 (27)	48.1 (39)

() - Represents number of people.

community increased accordingly. Among Blacks there continued to be consensus among the young and prime age while the older subgroup reported significantly greater uncertainty. Among non-Blacks there was a similar response though here the older population was more positive about responsiveness of "the system." Clearly Blacks are less positive concerning the responsiveness of the criminal justice system whether one refers to the police, courts or correctional system. At the same time, with the exception of the police, Blacks are not noticeably more negative than non-Blacks in their assessment of the courts and the correctional system.

Perhaps the high degree of uncertainty shown by both populations when asked to consider the correctional system stems from the fact that it is the least familiar of the three systems shown here. Members of the general public seldom

have recourse to any interaction with corrections and as such it remains the most isolated section of the criminal justice system.

Overall, Black males and females respond similarly and reflect the patterns already discussed concerning age groups (Table 28b). Black males are, however, both slightly more positive and slightly more negative than the females; the latter reflecting, perhaps, their lesser involvement with the criminal justice system therefore making them significantly more uncertain as to how the system might respond to community initiatives. Among the non-Blacks, females have more positive expectations than males. Non-Black males, overall, hold less hope for responsiveness than even their Black counterparts.

Members of both populations in the high education category are more likely than those in the low category to feel that all sectors of the criminal justice system would be responsive to change, the police again being seen as that part which would be most responsive (Table

Table 28c
Aspects of the Criminal Justice System Perceived to be Responsive to
Community Requests for Change by Education* and Race

Responsive	Black		Non-Black	
	Low	High	Low	High
By Police				
Yes	29.0% (63)	39.6 (57)	36.8 (21)	54.1 (53)
No	30.9% (67)	26.4 (38)	33.3 (19)	17.3 (17)
Uncertain	40.1% (87)	34.0 (49)	29.8 (17)	28.6 (28)
By Courts				
Yes	23.9% (52)	34.5 (49)	28.1 (16)	35.1 (34)
No	27.5% (60)	26.8 (38)	31.6 (18)	25.8 (25)
Uncertain	48.6% (106)	38.7 (55)	40.4 (23)	39.2 (38)
By Correctional System				
Yes	19.4% (42)	31.9 (45)	29.8 (17)	33.0 (32)
No	25.0% (54)	23.4 (33)	31.6 (18)	21.6 (21)
Uncertain	55.1% (119)	44.7 (63)	38.6 (22)	45.4 (44)

() - Represents number of people.

*Low education level includes all those who have not completed high school and all others are included in the High category.

28c). Even among the higher educated the proportion having such positive views is only about one-third of the sample (the exception being that the majority of better educated non-Blacks believe the police would be responsive). Among all groups uncertainty increases as the focus shifts from police to courts to correctional system. Surprisingly the percentage who are negative or pessimistic about responsiveness is roughly the same across all three sectors. On all three foci, the most negative in their expectations are low education non-Blacks; the most positive are the better educated non-Blacks and the most uncertain are the low education Blacks. The latter finding is rather odd since it is this subgroup that seems to have the greatest amount of direct experience with the police, the courts and the correctional system. Their high levels of uncertainty may reflect a perception of real variation within the criminal justice system (Table 28c).

Some comments made with regards to the responsiveness of the system were positive, for instance:

My experience is that the police are able to see the position of the average man through their daily dealings with the public;

or another,

Many changes have already taken place. They have our best interests at heart.

Table 29

Reasons for Choosing Aspect of the Criminal Justice System Interested in Responding to Community Requests for Change by Age and Race

Reasons	Black			Non-Black			Total
	Less than 25 yrs.	25-54 years	Over 55 years	Less than 25 yrs.	25-54 years	Over 55 years	
No interest	30.3% (33)	45.6 (47)	39.5 (15)	33.9 (20)	39.3 (22)	33.3 (6)	37.3 (143)
Community input effective	20.2% (22)	17.5 (18)	18.4 (7)	10.2 (6)	17.9 (10)	11.1 (2)	17.0 (65)
Police are negative	12.0% (13)	7.7 (8)	0.0 (0)	1.7 (1)	1.8 (1)	0.0 (0)	6.0 (23)
Hard to change attitudes	10.1% (11)	1.9 (2)	10.5 (4)	5.1 (3)	3.6 (2)	0.0 (0)	5.7 (22)
Their job to respond	12.8% (14)	4.9 (5)	13.2 (5)	8.5 (5)	8.9 (5)	11.1 (2)	9.4 (36)
Respond to pressure and publicity	11.0% (12)	9.7 (10)	13.2 (5)	20.4 (12)	10.7 (6)	16.7 (3)	12.5 (48)
Other	3.7% (4)	12.6 (13)	5.3 (2)	20.3 (12)	17.9 (10)	27.8 (5)	12.0 (46)
Total	100.1% (109)	99.9 (103)	100.1 (38)	100.1 (59)	100.1 (56)	100.0 (18)	99.9 (383)

() - Represents number of people.

Some, however were of a negative nature, such as:

They don't care. I don't think it matters to them as to what the community recommendations are;

and another one,

If you are Black or Indian the system will be on your back all the time.

When asked for the reasons for their response a large proportion - about one-third - of both populations, at all age levels, showed a skeptical attitude in stating that the system had no interest in change and only did what suited its members (Table 29). The Black population, especially the young

and prime age groups, cited negative police attitudes as the additional reason for police reluctance to respond to the community.

The main factors cited by those respondents perceiving responsiveness include the belief that community input can be effective (17 percent) and the assessment that parts of the criminal justice system respond when pressure is applied and when publicity is involved (13 percent). Blacks of all age groups and in roughly equal proportions point to the effectiveness of community input. Non-Blacks - almost doubly so - tend to stress the "system's" responsiveness to pressure and publicity. These 'racial' differences might well reflect the different strategies of minority and majority groups respectively. A collection of responses have been included under the rubric other which on their own did not have a sufficient number of responses to bear analysis. Some examples of this type of reply are:

The police have an image to maintain and are more in touch with the community;

Table 29b

Reasons for Choosing Aspect of the Criminal Justice System Interested in Responding to Community Requests for Change by Education* and Race

Reasons	Black		Non-Black		Total
	Low	High	Low	High	
No interest	38.7% (55)	36.4 (39)	40.8 (20)	32.5 (27)	37.0 (141)
Community input effective	15.5% (22)	23.4 (25)	12.2 (6)	14.5 (12)	17.1 (65)
Police are negative	9.1% (13)	7.5 (8)	4.0 (2)	0.0 (0)	6.0 (23)
Hard to change attitudes	7.0% (10)	6.5 (7)	2.0 (1)	4.8 (4)	5.8 (22)
Their job to respond	11.3% (16)	7.5 (8)	2.0 (1)	13.3 (11)	9.4 (36)
Respond to pressure and publicity	13.4% (19)	7.5 (8)	20.4 (10)	13.2 (11)	12.6 (48)
Other	4.9% (7)	11.2 (12)	18.4 (9)	21.7 (18)	12.1 (46)
Total	99.9% (142)	100.0 (107)	99.8 (49)	100.0 (83)	100.0 (381)

() - Represents number of people.

*Low education level includes all those who have not completed high school and all others are included in the High category.

or to the effect that:

It was all politics.

Some also expressed uncertainty largely because of the specific community they live in rather than a sector of the criminal justice system.

Analysis of reasons by education levels shows again that a large proportion of both populations, the low and high education levels, agree that the criminal justice system has no interest in changing (Table 29b). Blacks again show much consensus in the belief that community input can effectively bring about change. This view is particularly common among better educated Blacks. Blacks at the low education level are more likely than the better educated to suggest responsiveness as a function of pressure and publicity.

Among non-Blacks a somewhat similar pattern exists with the better educated emphasizing more the effectiveness of community input and the lesser educated pointing more to the prods of pressure and publicity. It is interesting to compare Blacks and non-Blacks in

Table 29c

Reasons for Choosing Aspect of the Criminal Justice System Interested in Responding to Community Requests for Change by Occupation* and Race

Reasons	Black			Non-Black			Total
	Low	High	Other	Low	High	Other	
No interest	38.7% (41)	44.4 (12)	50.0 (9)	43.1 (22)	36.7 (11)	14.3 (1)	40.2 (96)
Community input effective	18.9% (20)	18.5 (5)	16.7 (3)	11.8 (6)	16.7 (5)	0.0 (0)	16.3 (39)
Police are negative	4.7% (5)	0.0 (0)	11.1 (2)	0.0 (0)	0.0 (0)	0.0 (0)	2.9 (7)
Hard to change attitudes	7.5% (8)	3.7 (1)	0.0 (0)	2.0 (1)	3.3 (1)	0.0 (0)	4.6 (11)
Their job to respond	12.3% (13)	3.7 (1)	16.7 (3)	11.8 (6)	6.7 (2)	14.3 (1)	10.9 (26)
Respond to pressure and publicity	9.4% (10)	7.4 (2)	5.6 (1)	5.9 (3)	16.7 (5)	57.1 (4)	10.5 (25)
Other	8.5% (9)	22.2 (6)	0.0 (0)	25.5 (13)	20.0 (6)	14.3 (1)	14.6 (35)
Total	100.0% (106)	99.9 (27)	100.1 (18)	100.1 (51)	100.1 (30)	100.0 (7)	100.0 (239)

() - Represents number of people.

*Low occupational level includes the traditional blue-collar jobs, High includes professional and managerial and Other includes homemakers, students and pensioners.

their views concerning police responsiveness. Blacks, especially the "low" education, are more likely to perceive the police as negative. Better educated non-Blacks are the only subgroup where a significant proportion of respondents have positive expectations of responsiveness based on the idea that the police are in touch with the community.

Analysis of reasons by occupation levels shows a similar picture with both populations, at all occupation categories, except non-Blacks in the other category, largely agreeing that the "system" is not interested in changing (Table 29c). Blacks at the low and Other occupation categories state, as an additional reason, that community input can be effective in bringing about change. Blacks in the high category are likely to offer other reasons as their additional reason. Non-Blacks at the low and high occupation levels are proportionally more likely to offer other reasons as secondary factors.

Suggestions for changes that would improve the criminal justice system in Nova Scotia are shown in Table 30 by occupation and race. The employment of more Blacks in the system is strongly suggested by Blacks, at all occupation levels, to be the best means of bringing about improvement. Black role models and the "system's"

Table 30
Suggestions for Changes to the Criminal Justice System by
Occupation* and Race

Suggestions	Black			Non-Black			
	Low	High	Other	Low	High	Other	Total
More public awareness	13.4% (20)	11.1 (4)	0.0 (0)	24.4 (10)	30.0 (9)	50.0 (1)	15.8 (44)
More equality in hiring	14.1% (21)	8.3 (3)	15.0 (3)	9.8 (4)	0.0 (0)	0.0 (0)	11.2 (31)
More professionalism and better training	18.1% (27)	19.4 (7)	20.0 (4)	29.3 (12)	43.3 (13)	50.0 (1)	23.0 (64)
More ethical and younger people	12.8% (19)	5.6 (2)	30.0 (6)	12.2 (5)	3.3 (1)	0.0 (0)	11.9 (33)
More Blacks in system	36.9% (55)	50.0 (18)	35.0 (7)	9.8 (4)	13.3 (4)	0.0 (0)	31.7 (88)
Other	4.7% (7)	5.6 (2)	0.0 (0)	14.6 (6)	10.0 (3)	0.0 (0)	6.5 (18)
Total	100.0% (149)	100.0 (36)	100.0 (20)	100.1 (41)	99.9 (30)	100.0 (2)	100.1 (278)

() - Represents number of people.

*Low occupational level includes the traditional blue-collar jobs, High includes professional and managerial and Other includes homemakers, students and pensioners.

insensitivity to minority needs are factors identified by respondents as needing change. More professionalism and better training is offered as the additional suggestion of those in the low and high occupational categories. Blacks in the other occupation category are likely to offer "younger and more ethical persons" as their secondary suggestion. Among those suggestions included in the other category are "Get tougher on crime", "No changes necessary", and "Punish discrimination in the system."

Non-Blacks on the other hand, at all occupation levels, are most likely to suggest more professionalism and better training as the best means to bring about positive change. Non-Blacks also report an increase in public awareness as an additional suggestion.

Table 30b, on the following page, examines suggestions for change by education level and race. Blacks in both low and high education levels again agree on the primacy of the employment of more Blacks in the system as the most important means of bringing about desired change. More professionalism and better training are also suggested as well as more equity in hiring and the hiring of younger and more ethical persons, presumably believing that younger persons would be less biased against minorities and more open to their input. The similarity in response pattern between low and high education Blacks is striking. There is also much consensus

Table 30b
Suggestions for Changes to the Criminal Justice System by
Education* and Race

Suggestions	Black		Non-Black		Total
	Low	High	Low	High	
More public awareness	10.0% (19)	12.4 (16)	20.5 (8)	29.2 (19)	14.7 (62)
More equality in hiring	13.2% (25)	10.9 (14)	17.9 (7)	3.1 (2)	11.3 (48)
More professionalism better training	20.5% (39)	23.3 (30)	38.5 (15)	32.3 (21)	24.8 (105)
More ethical and younger people	12.6% (24)	13.2 (17)	7.7 (3)	10.8 (7)	12.1 (51)
More Blacks in system	38.9% (74)	34.9 (45)	7.7 (3)	13.8 (9)	31.0 (131)
Other	4.7% (9)	5.4 (7)	7.7 (3)	10.8 (7)	6.1 (26)
Total	99.9% (190)	100.1 (129)	100.0 (39)	100.0 (65)	100.0 (423)

() - Represents number of people.

*Low education level includes all those who have not completed high school and all others are included in the High category.

among the educational groups of non-Blacks. Their emphasis is clearly on more professionalism and the better training of justice personnel, followed closely by greater public awareness and education.

The small numbers of non-Blacks for whom responses are available in some cells precludes more detailed analysis of their suggestions. It is interesting that among the low education group there is some support for greater equality in hiring and among the better educated there is some support for affirmative action. Among Blacks the emphasis on hiring minorities and affirmative action is unequivocally the major recommendation.

Non-Blacks at both education levels are most likely to suggest

more professionalism and better training and to suggest increased public awareness as a secondary measure.

Some individual comments may serve to illustrate better the kind of responses made on the questionnaire; for example as one respondent states:

The judges should be forced to take courses in race relations, multi-culturalism and ethnicity. Blacks should be allowed in other professions such as medicine. You don't know what kind of reports come out of doctors' offices on some Black man who died due to a beating by the police. Usually they put suicide or something like that. The same thing should apply to the police.

Another respondent comments:

I feel that it's instilled in the system and nothing can be done now to change things. It tends to be embedded in a person to prejudice and there is no course or educational system that can change the judicial system's ways. It won't change overnight.

And another states:

The correctional system is archaic to say the least. It is inhuman and a breeding ground of violence. Reform is next to non-existent (for prisoners). The courts belong to lawyers and judges. Even an educated man today has to struggle to understand all the laws, his rights and the rights of criminals. To simplify the court system (a monumental undertaking) would go a long way to help all men and women when dealing with the law.

A summary of these results shows that the police are perceived, by both populations, to be the sector of the criminal justice system which would be most responsive to community requests for change. This finding holds true when the variables age, sex, and education are entered into the analysis. The courts are also perceived as being responsive to requests for change but to a lesser degree. Blacks at all age levels perceive the correctional system as being the least likely to respond to community requests for change. A strong degree of uncertainty is demonstrated by both populations in response to requests for change. Non-Blacks are inclined, to a slight degree, to perceive that the correctional system as more likely than not to respond to requests for change. A strong degree of uncertainty is demonstrated by both populations in response to this question but particularly with reference to the correctional system.

Both populations showed a skeptical attitude when they were asked to supply their reasons for choosing the sector of the system which they thought would be most responsive to requests for change. The largest percentage, of both populations, stated that they did not think the system had any interest in change and that "they" only did what suited them. A strong consensus is shown by both populations in this perception when various age, education and occupation categories are examined.

Blacks, at all categories of age, education, and occupation, chose as their second reason a belief in the power of community input to effect change. Non-Blacks show a strong tendency to select as their second reason the other category which includes a number of responses such as, "the police have an image to maintain and are more in touch with the community", or that, "it was all politics", and some who stated that they were uncertain of the community they lived in.

The employment of more Blacks in the system is strongly suggested by Blacks, at all occupation and education levels, as being the best means to bring about positive change. Non-Blacks, however, are more inclined to suggest more professionalism and better training as a method for improvement.

The secondary suggestion for change emphasized by Blacks is more professionalism and better training, whereas non-Blacks are inclined to suggest increased public awareness as their secondary method to bring about desired change.

Regression Analysis

A series of discriminant function analyses were carried out which measured the predictability of a set of independent variables (location, race, sex, age, employment status, occupation, source of income, personal income, and education) and a selection of dependent variables. Two of these analyses proved to be significant.

The results of the initial regression analysis, with perception of discrimination in Nova Scotia as the dependent variable, allows us to differentiate between those who say that there is only some (very few respondents thought that there is none) and those who say that there is a great deal of discrimination. The analysis showed the following to be the best explanatory variables (correlation coefficients in brackets).

1. Race (-.83): The negative sign with this coefficient shows that Blacks are more likely to say that there is a great deal of discrimination and non-Blacks more likely to say that there is only some.
2. Occupation (.43): The high occupation category here is more likely to discriminate between the two dependent groups.
3. Age (.28): This result indicates that those in the 25 years and older age category are more inclined to say that there is a great deal of discrimination.
4. Income (.20): Those in the high income group are, as shown by this coefficient, more likely to discriminate between some and a great deal of discrimination.

The second analysis, using perception of discrimination in treatment by police as the dependent variables, allowed us to determine between those who replied in the positive and those who replied in the negative. The best predictor variables follow:

1. Race (.89): Blacks are more likely to perceive discrimination in treatment by the police than non-Blacks.
2. Education (.51): Those in the higher education category are more likely to perceive discrimination in treatment by police.

-
3. Location (.36): Those who reside in the other residential areas (all areas other than Halifax, Dartmouth and Sydney) are more likely to perceive discrimination in treatment by police.
4. Sex (-.34): This result indicates that females perceive no discrimination in treatment by police.

Summary

The survey of discrimination in Nova Scotia was carried out in the fall of 1987. As indicated in Table 1 the sample total was 524 drawn from eight different areas in Nova Scotia. The large majority of the respondents were Black (365) while the Whites or non-Blacks totalled 159. The latter were selected for comparative purposes, were interviewed via the telephone and were largely from the urban areas of Halifax/Dartmouth and Sydney. Black respondents were selected from community lists supplied by Black organizations, were interviewed usually in person and were slightly more likely to reside in areas outside the three cities noted. As indicated in the survey report the sampling was carried out with a view to ensuring adequate numbers of persons below 55 years of age and roughly similar numbers of males and females.

The overall comparison of the sample populations - Black and non-Black - indicates that Blacks have higher levels of unemployment, lower levels of formal education and are employed in less prestigious occupations. The Black sample tends to be less concentrated in urban areas and to have a higher ratio of males to females. Despite these differences the two samples exhibit roughly similar proportions on most attributes, especially when one takes into account the much larger non-urban component in the Black sample. In the analyses that follow the sample differences will be controlled for by focussing on percentage differences and by simultaneous control of other variables as warranted.

The intent of the survey was to ascertain the perceptions of the respondents as to the degree of discrimination against Blacks, if any, which exists in the criminal justice system of Nova Scotia. To put this into context, respondents were asked to what extent prejudice and discrimination were a part of life in the province. Table 6 indicates clearly that Blacks are much more likely to report a great deal of discrimination. Nearly half the Black sample espoused this view while among non-Blacks the proportion was slightly under 25 percent, still a significant figure given that discrimination is presumed to be legally (in many instances) and morally wrong. The results of subsequent analyses when education, occupation and income are controlled for show similar patterns between the two populations with those in the higher categories of education and

occupation more likely to report the existence of a great deal of discrimination (especially those of high occupational status). As Table 7 indicates among Blacks, those under 55 years of age were most likely to report that discrimination is increasing (over one third of that age group) while Blacks over 55 years of age were most likely to contend that it was decreasing (about 36 percent). Clearly in all age categories Blacks were more likely, almost on a two to one basis, to perceive discrimination as increasing. Interestingly both populations were as likely in all age categories to see discrimination remaining the same so their differences are largely over the degree to which it is decreasing or increasing. In justifying their reporting respondents were most likely to recount personal experiences. Increased public awareness was the chief factor cited by those pointing to the decline of racism while the endurance of old attitudes was most commonly cited for its remaining at the same level. Among those expressing the view that discrimination is increasing it was often noted that Blacks are not getting the economic benefits they had hoped for in recent years. Employment was the area where both Blacks and non-Blacks considered discrimination to be most operative. Unlike non-Blacks, Blacks also frequently pointed to the criminal justice system as an area of life where prejudice and discrimination still existed.

In referring to the criminal justice system it was widely held throughout the entire sample that police discrimination against Blacks exists. About 60 percent of the sample took this view and while Blacks were more likely to report this perception, Table 10 shows that young non-Blacks were as likely as their Black counterparts to report this racism. A similar analysis for perceived discrimination in treatment by the courts reveals strong agreement among most Black and non-Black age groups that the court sector of the criminal justice system also discriminates against Blacks. True, the proportions were less than in the case of the police but still, only among respondents over 55 years of age, Black or non-Black, did a clear majority think that there was little discrimination.

The above patterns of reported perceptions of extent of discrimination were further indicated in Table 12 which deals with whether Blacks are treated the same or more or less fairly by different sections of the criminal justice system. Again Blacks of all age groups were more likely to contend that they are treated less fairly by the police (over 75 percent reported this pattern) and even the non-Blacks generally concur with this view. Similar patterns were found for the courts and the correctional systems albeit to a somewhat less degree. It may be noted that both populations were largely uncertain as to whether Native people are treated more or less fairly than Blacks. Few Blacks and even fewer non-Blacks thought

that Native people receive preferential treatment. Finally both populations recognized to almost the same extent that involvement with the criminal justice system - as an offender - has negative effects on a person's future. Surprisingly there was agreement that the effect is more likely to be harmful for Blacks than for others. In both populations these harmful effects were perceived to be especially so with respect to employment, education and housing.

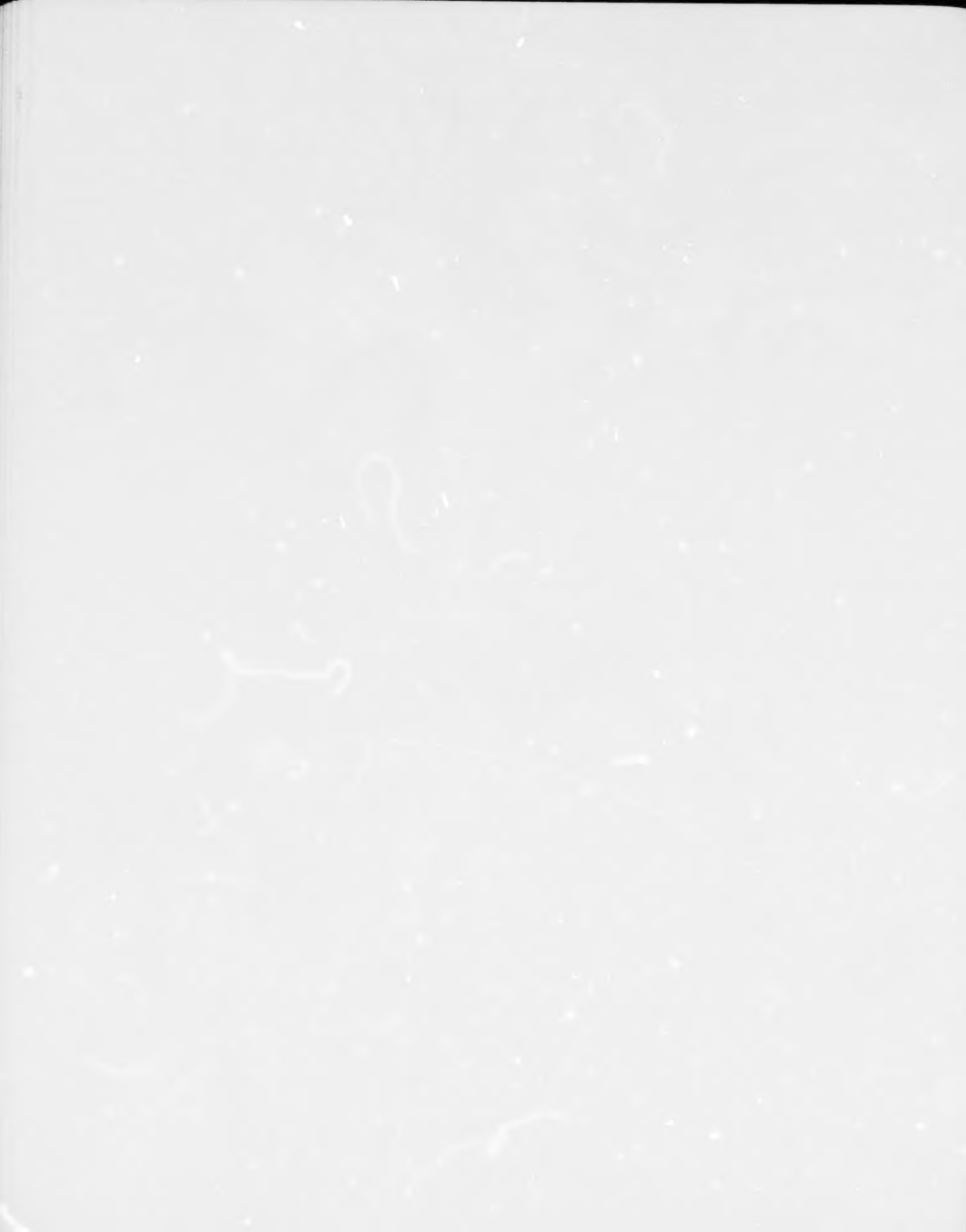
The next section of the survey questionnaire dealt with respondents' involvement and direct experience with the criminal justice system. This section is more difficult to summarize since the questionnaire did not specify the involvement to be queried and so responses include "vicarious" involvement through relatives and friends, et cetera. Involvement can also range from speeding violations to serving as a witness. Moreover, for many questions the relevant numbers of respondents fall off since only a minority of the sample has been in court and fewer still exposed to the correctional system. The reports of personal experiences with the criminal justice system show that Blacks and non-Blacks were equally likely to have reported some involvement though Blacks were more likely - the numbers are small - to have had an involvement with the correctional system (Table 19). Both male and female Blacks reporting a personal experience referred to an incident or charge of a non-traffic character more than anything else. The second most frequent experience, again reported by only a minority of Black respondents, focussed upon "being hassled by police". Non-Black males (again the reader is cautioned that the numbers are small) were proportionately as likely as their Black counterparts to report an experience of a non-traffic nature though females rarely did. It may also be noted that only one non-Black referred to being hassled by police.

Table 21 points up a dramatic difference between the two populations in terms of their perceptions of how they were treated when they were involved with any part of the criminal justice system. While the clear majority of Black respondents, whether male or female, indicated that they were treated somewhat or very unfairly, most non-Blacks said they were treated extremely well or fairly well. Clearly there is a significant estrangement of Blacks reflected in these data. It should also be noted that Blacks were more likely to say that they were not advised of their legal rights when charged and more likely to say that they were pressured to admit guilt by the police. Of course, as expected, it was the younger, less educated Blacks who were most likely to express these views.

The final section of the questionnaire dealt with suggestions and ideas that respondents had concerning changing the criminal justice system. They were asked which parts of that system were most interested in responding to community and individual requests for

change (and why) and what specific changes they would recommend. Results indicate that the police were perceived by both populations to be the most responsive sector; this finding held true when the variables of age, sex and education were entered into the analyses. Both populations expressed a rather skeptical attitude when asked to supply their reasons for selecting one sector to be more responsive than others. As shown in Table 29b the more frequent answer was that the "system" had no interest in change and only did what suited "them". The secondary reason offered by Blacks was a belief in the effectiveness of community input while non-Blacks emphasized a variety of reasons such as "the police have an image to maintain". These secondary reasons might well reflect the different strategies of minority and majority groups respectively.

Suggestions for improving the criminal justice system are shown in Table 30b where educational level of respondent is controlled for. Interestingly Blacks in both the low and high education categories agreed on the primacy of employment of more Blacks throughout the "system". More professionalism and better training were also advanced as well as more equity in hiring and the hiring of younger and more ethical persons. Non-Blacks also exhibit a striking similarity across educational categories but their suggestions were decidedly different than Blacks. Non-Blacks emphasized more professionalism and better training of justice personnel, followed closely by greater public awareness and education. Blacks, perhaps for valid historical reasons, were less confident that general change strategies such as these would generate the sensitivity and the empathy they perceive the criminal justice system to require.



4

Sentencing Disparity and Race in the Nova Scotia Criminal Justice System

Using section 294 [now 334]
(theft) of the *Criminal Code*

by
Don Clairmont
Winston Barnwell
Anthony O'Malley

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Introduction

The survey on perceptions of discrimination indicates a belief on the part of respondents that discrimination exists in the criminal justice system in Nova Scotia. Blacks, particularly those who have been involved with the system, are inclined to state that they receive "more time for the same crime" than non-Blacks. There is a paucity of research, especially in Nova Scotia, concerning discrimination and sentencing and this study is, in part, an attempt to redress this situation. Previous researchers have investigated possible discrimination in the Halifax courts (Renner and Warner, 1981); although focussing more on the economically disadvantaged, they have suggested the possible existence of racial discrimination in sentencing.

The aim of this study, then, is to determine if there is any evidence that Blacks receive harsher sentences than non-Blacks charged with the same offence before Halifax courts.

Data Collection and Methodology

Earlier studies suggested the need to control for type of offence. The cases included in this study were all charged under Section 294 of the *Criminal Code* which covers the offence of theft over and under the amount of one thousand dollars. Section 294(b)(ii), an offence punishable by summary conviction, allows for discharges. This sentencing study was carried out and prepared by Don Clairmont, Winston Barnwell and Anthony O'Malley. The Renner (1981) study had indicated that, of the observed cases which had received discharges, Blacks were excluded. We determined, then, that the type of offence selected for this study, precisely because it does allow for a discharge, would be useful to examine from the point of view of the discrimination suggested by previous research.

The two populations included are Black males and non-Black males (*i.e.*, sex was controlled). The term non-Black is used here in preference to White to maintain consistency of wording throughout the study. The Black population of Halifax County is estimated to be roughly three percent of the total population for the county. Since we reviewed over 1,000 files to obtain 51 Black offenders it is clear that Blacks are not overrepresented in the population charged with this crime.

As race is generally not indicated on court documents, we were obliged to obtain access to the identification records of the Halifax Police Department to ascertain the race of the majority of the cases. Difficulties in data collection arose because the Halifax Police Department is in the process of transferring its records to a new

computer system and has stopped loading new records on the old system in anticipation of the changeover. Subpoenas were subsequently issued to obtain the Halifax and Dartmouth Police Departments' records and the records of the Crown Prosecutor's Office of the Province of Nova Scotia.

The variables included in this study were extracted from the relevant court documents. These included: age, residency, employment status, marital status, educational attainment, prior convictions, plea, type of counsel (private, legal aid, or none), presence of a pre-sentence report and whether or not this was favourable to the accused, the type of sentence, and the presiding judge. Although data on the favourableness of the pre-sentence report was collected, only two cases were recorded for which the pre-sentence report was not favourable to the accused. This variable, therefore, was not included in the quantitative analysis; only the presence of a pre-sentence report was used.

Initially, it was intended to have a sample population of 200, comprised of 100 Blacks and 100 non-Blacks. However, it was not possible to obtain the desired sample of Blacks for a number of reasons which are included here in the hope that they will be of value to future researchers. Case files were generally not available for this particular offence before 1986 since they are often destroyed after a period of three years. The scope of this study is therefore restricted for the most part to the years 1986 and 1987. Our data collection revealed that this type of crime - the majority of offences under Section 294 involve shoplifting - is not especially common among Black males, a fact which restricted the size of the Black sample, even though initial discussions with personnel from the criminal justice system had indicated that a sufficient sample could be obtained for this offence.

Difficulties were also encountered in this study as a result of the incompleteness of court records. A substantial number of these records were examined (over 1,000 individual cases) and they varied regarding the amount of information they contained. The "Confidential Instructions to the Crown" sheet was often incomplete, particularly regarding the name of the presiding judge and the defence counsel. The adjudication often did not appear in the proper section of this sheet, and the civil and employment status of the accused were missing in many cases.

The Information laid against the accused contains a section on the reverse side for demographic details which was usually incomplete. On the inside of the front cover of some files a court record sheet was attached, which provided an opportunity for entering the details of adjudication and other data pertinent to the

Figure 1
Sample Population
Showing Age by Race

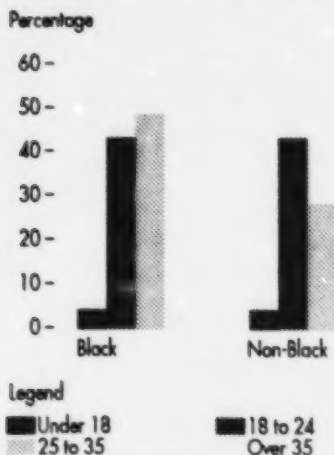
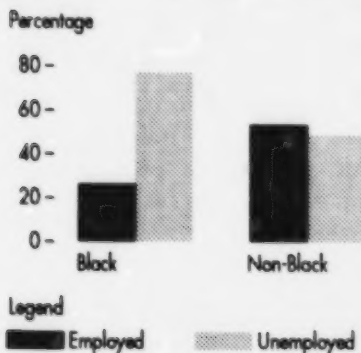


Figure 2
Sample Population
Showing Employment Status
by Race



case. This was generally incomplete or often simply irrelevant.

The isolation of the information systems of different jurisdictions (e.g., County and City), especially the criminal record system, presents a problem for researchers attempting to gather data. Each sector has its own computer system whose data is not available to the other jurisdiction. For example, it is possible for an offender to be tried and convicted in a County Court in Truro one day, and the next day appear in a Halifax Court on another charge, yet have no record of the previous conviction.

Description of Sample

The population for this study ($n = 177$) is comprised of Black offenders ($n = 51$) and non-Black offenders ($n = 126$) almost all of whom have been charged under Section 294(b) of the *Criminal Code*. Since the intent of the study was to examine disparity in sentencing, only persons who had been convicted were included in the sample. The total number of occurrences falling under Section 294 of the *Criminal Code* for Halifax in 1986 and 1987 was slightly over 7,000 for each year (data supplied by the Halifax Police Department). This number includes not only occurrences eventually brought to prosecution, but also unsolved crimes, cases that were investigated but found not to be of substance, or cases for which insufficient evidence existed to lay a charge. Of this number, 594 males were brought to court in 1987 to answer charges under this section of the *Criminal Code*. Once the sample size for non-Blacks was reached data collection ceased for this category of persons. Given the small charge/occurrence ratio, our Black sample represents almost a complete sample of Blacks charged with this offence for the period of the study.

Typically, the sample is composed of males under the age of 29 years (69 percent), who are single (75 percent) and unemployed (56 percent). The majority also tend to be from a lower socioeconomic status area (63 percent) and to have been charged with theft under the amount of one thousand dollars [s.294(b)] (96 percent). Only a very small number (four percent) of cases have been charged with theft over one thousand dollars [s.294(a)] and these were retained in the analysis. The greatest proportion of the sample (55 percent) were first offenders.

Figure 1 shows sample population age by race. A large portion of the Black sample falls in the age group of 25-35 years (49 percent) with a slightly smaller portion (43 percent) in the 18-24 years group. The largest percentage of the non-Black sample is in the 18-24 years (43 percent) group with the remainder being spread between the 25-35 years (27 percent) and the over 35 years (26 percent) group. A

Figure 3
Sample Population
Showing Education Attainment
by Race

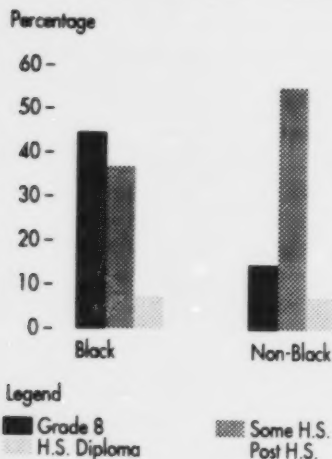
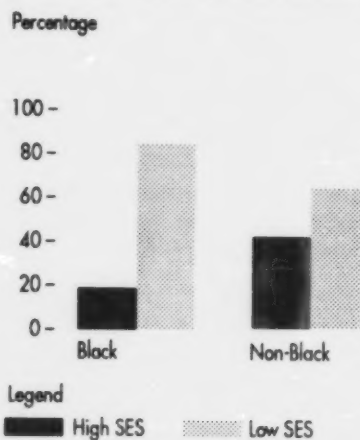


Figure 4
Sample Population
Showing Socio-economic* Status
by Race



* The average value of residence, as determined by Statistics Canada Census Tracts (1986) has been used here as a proxy for socio-economic status.

Figure 5
Sample Population
Showing Civil Status by Race

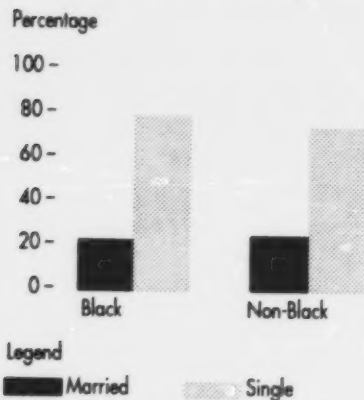
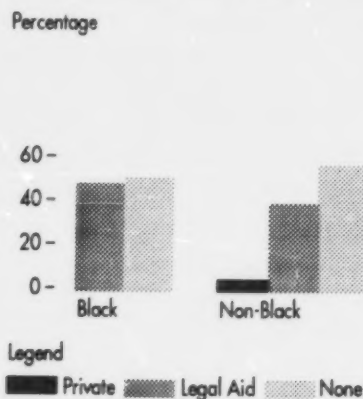


Figure 6
Sample Population
Showing Type of Counsel by Race



comparison of the two samples shows that the greatest difference occurred in the over 35 years category.

Figure 2, on previous page, illustrates the sample population with regard to employment status and race. For the purposes of our study, students were included among the employed and retirees among the unemployed. A large percentage of Blacks (Figure 2) were unemployed (77 percent), while only a small number (23 percent) were employed. Non-Blacks also show a large percentage of unemployed (48 percent), but this is considerably smaller than the proportion of unemployed in the Black sample. The non-Black sample shows 52 percent employed and is also comprised of a larger percentage of students (19 percent) than the Black sample (six percent).

The Black population typically shows a lower level of educational attainment (Figure 3) than the non-Black population. More Blacks (45 percent) had a less than grade nine education than non-Blacks (16 percent). Non-Blacks (20 percent) have completed some post-secondary or university education more so than Blacks (ten percent).

The average value of residence, as determined by Statistics Canada Census Tracts (1986) has been used here as a proxy for socio-economic status.

In order to include a measure of socio-economic status, the

average value of the dwellings in the offender's census tract location - as calculated from Statistics Canada's Census Tracts (1986) has been used as a proxy. Figure 4 shows the much lower socio-economic status of the Blacks, with a significant number (82 percent) in the low category. Non-Blacks are more likely (60 percent) to be in the high socio-economic category.

The two populations are very similar with respect to the ratio of married to single persons (Figure 5). The Black subsample shows a slightly smaller percentage (22 percent) of married and a slightly larger percentage of single (78 percent) individuals than non-Blacks.

Figure 6 graphically illustrates the type of legal representation for both populations. No Blacks, in this sample, were represented by private counsel, and they were more likely (49 percent) to be represented by a Nova Scotia Legal Aid lawyer. Non-Blacks were more likely (55 percent) to have no legal representation in court.

Table 1 shows the number of prior convictions of the sample population by race. All priors were entered for each case, starting from the most recent, until a total of six was reached. Any more than this number was considered to be of no real value for the purpose of this study since a greater number was thought to have little effect on sentencing. A significant percentage of both the Black (39 percent) and non-Black (62 percent) sample were first offenders, with the former showing a lower proportion. The Black sample contained a greater number of frequent offenders with six or more prior convictions (35 percent) than the non-Black sample (ten percent). A similar pattern is displayed for both populations with a clustering at both ends of the conviction continuum and smaller numbers in the middle, which may indicate the difference between those who commit a crime and learn from their error and others who become chronic offenders.

Sentencing

The *Criminal Code* imposes upon the judiciary - those authorized to commit to trial, try, and sentence one accused of an offence - a series of norms which must be considered when arriving at a sentence. They are, in order of priority: the protection of the public, the deterrence to the convicted and others who might be inclined to commit a similar crime, and the reform or rehabilitation of the convicted. The last should not be understood altruistically: in our modern epoch the administration of justice is a public expense, as are secondary effects of this administration (e.g., an imprisoned man's family requiring social assistance). In any case, "the public is protected by the right sentence which deters others and reforms" (*R.v. Morrisette and Two Others* (1970), 1 C.C.C. (2d) 307 (Sask.

Table 1
Sample Population Showing
Number of Prior Convictions
By Race

Priors	Black	Non-Black
None	39.2% (20)	61.9 (78)
One	13.7% (7)	10.3 (13)
Two	2.0% (1)	8.7 (11)
Three	3.9% (2)	5.6 (7)
Four	2.0% (1)	0.0 (0)
Five	3.9% (2)	4.0 (5)
Six	35.3% (18)	9.5 (12)
Total	100.0% (51)	100.0 (126)

() - Represents number of people.

C.A.); quoted in Salhany, 1984:383).

In complying with these norms, and arriving at an appropriate sentence, judges must consider many details of the accused and the circumstances of the offence. Among these will be:

- 1) the gravity of the offence,
- 2) the character of the act itself,
- 3) the penalties provided by the Code,
- 4) the age of the accused,
- 5) his or her character,
- 6) previous criminal activity,
- 7) family and dependents,
- 8) whether the crime was deliberate or issued from impulse,
- 9) the effect of punishment as a deterrence to the convicted and others,
- 10) the possibility of reforming the convicted,
- 11) the extenuating circumstances, and so on. (*R v. Morrisette, op. cit.*)

The protection of the public from injury to their person or property, by conduct that has been deemed illegal, is readily accepted as the basic purpose of sentencing (Salhany, 1984).

The *Criminal Code* does not specify the particular sentence to be handed down in each case; nor, on the other hand is the judge free to impose whatever he or she deems appropriate once the accused is convicted. Rather, the Code specifies broad restrictions on sentencing for each offence according to where the latter falls within certain wide divisions of the Code. The major division is between summary and indictable offences (although there are a few that may proceed as either at the pleasure of the Crown); this division replaced, at the turn of this century, the old division between misdemeanors and felonies. Offences punishable by summary conviction are, in general, considered to be less serious than those proceeding by indictment, indicated in part (as the name suggests) by the rapidity with which summary offences may be dealt with. The subject of our study of sentencing is an offence punishable by summary conviction, s. 294(b)(ii), which refers to theft of property valued under, or over, one thousand dollars.

Parliament provided for five maximum penalties within the Code, according to the severity of the offence: life, fourteen, ten, five, and two years imprisonment. For some offences that are considered grave, there is also a minimum sentence. Judges must arrive at a sentence within these maxima and minima according to the criteria indicated above. For 294(b)(ii), a summary offence, there is no minimum sentence; there are, however, maxima (*e.g.*, no fine greater

than two thousand dollars and/or, no jail term longer than six months). This was an advantage for our study in that it allowed for sentences which might more clearly reflect judicial attitudes by allowing greater scope (e.g., it allowed for discharges); on the other hand, it was somewhat of a disadvantage in that the great fluctuation in sentencing made sentence comparison difficult. In evaluating criteria for sentencing, we relied, for the most part, on the Report of the Canadian Sentencing Commission (1987).

The following section presents an analysis of the type of sentence received, cross-tabulated with a variety of factors which converge in the act of passing sentence.

Table 2
Type of Sentence by Race

	Black	Non-Black	Total
Absolute discharge	0.0% (0)	11.1 (14)	7.9 (14)
Conditional discharge	15.7% (8)	27.0 (34)	23.7 (42)
Suspended sentence	2.0% (1)	2.4 (3)	2.3 (4)
Fine	49.0% (25)	50.0 (63)	49.7 (88)
Incarceration	33.3% (17)	9.5 (12)	16.4 (29)
Total	100.0% (51)	100.0 (126)	100.0 (177)

() - Represents number of people.

Table 2 shows the type of sentence received by race; it is remarkable that of the total number (14) of the offenders who received absolute discharges, none were Blacks. A disproportionate number of non-Blacks also received conditional discharges and suspended sentences (30 percent) compared to Blacks (17 percent). Non-Blacks (50 percent) were as likely to receive a fine as Blacks (49 percent), but the latter are significantly more likely to be incarcerated (33 percent to nine percent).

In the Black sample the largest percentage received a fine (49 percent). The second largest percentage were incarcerated (33 percent). In the non-Black sample the greatest proportion (50 percent) received a fine, while the second largest received a conditional discharge or a suspended sentence (29 percent). The possible existence of discrimination in the type of sentence passed will be examined specifically in a later section.

Discharges

Section 294 of the *Criminal Code*, which does not have a minimum sentence nor is punishable by 14 years or life, allows for an accused, if the court considers it to be in the best interest of the accused and is not contrary to the public interest, to be discharged. Although a discharge is not considered to be a conviction, a record is nonetheless kept by the authorities of the discharge. The value of this

Figure 7
Sample Population
Showing Discharges by Race

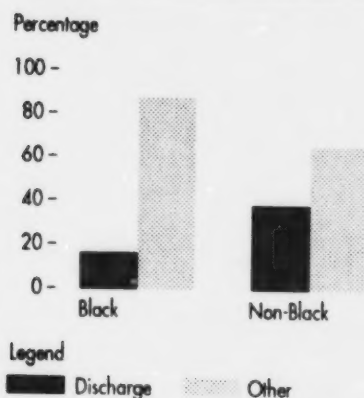


Table 3
Type of Sentence Received by
Those Who Had No Prior
Convictions and Race

Sentence	Black	Non-Black
Absolute discharge	0.0% (0)	17.9 (14)
Conditional discharge	40.0% (8)	38.5 (30)
Suspended sentence	5.0% (1)	3.8 (3)
Fine	50.0% (10)	37.2 (29)
Incarceration	5.0% (1)	2.6 (2)
Total	100.0% (20)	100.0 (78)

() - Represents number of people.

to accuseds is that they can honestly state (*e.g.*, in job applications) that they have not been convicted of a criminal offence. This question, referring to a conviction, most often appears in documents relating to employment for which criminal involvement with the law is a serious if not absolute impediment. In effect, a discharged person is deemed not to have committed the crime. Application may be made, one year after the discharge was granted, to have the record of the discharge removed.

There are two types of discharges: unconditional (absolute) and conditional. In the case of conditional discharges, the court imposes certain conditions which must be met or the discharged offender will be brought back to court for sentencing. The usual conditions imposed by the court are a period of probation and/or a certain amount of community service work.

As an alternative to discharge, the court has the power to suspend the passing of sentence and to release the accused until stated conditions are fulfilled. In this situation (the so-called "suspended sentence"), a conviction is registered and the offender must live with a criminal record. The conditions imposed by the court, again usually probation or community service work, must be completed or else the accused will be returned to court and a sentence (a fine or imprisonment) imposed. The offender is not necessarily brought before the same judge, and the sentence may or may not be the same as the initial judge would have passed. In handing down a suspended sentence, the court regards the age and character of the accused and the nature and circumstances surrounding the offence.

Figure 7 shows the percentage of discharges (absolute and conditional) received by both populations. Blacks were granted a significantly lower (16 percent) proportion of discharges than non-Blacks (38 percent). Blacks also received more severe sentences (84 percent) than non-Blacks (62 percent).

An examination of those who had no prior convictions, and the type of sentence they received, discloses that 18 percent of non-Blacks received absolute discharges while Blacks received none (Table 3). Blacks with no prior convictions were most likely to be fined (50 percent) and to a lesser degree to receive a conditional discharge (40 percent). In this respect, recent discussion in the media has drawn attention to the number of people who are in jail in Nova Scotia because they cannot pay fines. Given the high rate of unemployment among the Black sample in this study, the question arises of how many of those fined have been jailed for default. Non-Blacks with no prior convictions are as likely to receive a conditional discharge (39 percent) as a fine (37 percent).

It should be noted here that the individuals shown to have been incarcerated among the subsample of first offenders were transients

Table 4
Type of Sentence by Age and Race

Sentence	Black			Non-Black		
	Less than 18 yrs.	18-35 years	Over 35 years	Less than 18 yrs.	18-35 years	Over 35 years
Absolute discharge	0.0% (0)	0.0 (0)	0.0 (0)	40.0 (2)	8.0 (7)	15.2 (5)
Conditional discharge	50.0% (1)	14.9 (7)	0.0 (0)	60.0 (3)	28.4 (25)	18.2 (6)
Suspended sentence	0.0% (0)	2.1 (1)	0.0 (0)	0.0 (0)	2.3 (2)	3.0 (1)
Fine	50.0% (1)	46.8 (22)	100.0 (2)	0.0 (0)	52.3 (46)	51.5 (17)
Incarceration	0.0% (0)	36.2 (17)	0.0 (0)	0.0 (0)	9.1 (8)	12.1 (4)
Total	100.0% (2)	100.0 (47)	100.0 (2)	100.0 (5)	100.1 (88)	100.0 (33)

() - Represents number of people.

Table 5
Type of Sentence by Socio-economic Status* and Race

Sentence	Black		Non-Black		Total
	Low	High	Low	High	
Absolute discharge	0.0% (0)	0.0 (0)	11.4 (8)	10.9 (5)	7.8 (13)
Conditional discharge	14.3% (6)	22.2 (2)	20.0 (14)	41.3 (19)	24.6 (41)
Suspended sentence	0.0% (0)	11.1 (1)	2.9 (2)	2.2 (1)	2.4 (4)
Fine	57.1% (24)	11.1 (1)	51.4 (36)	43.5 (20)	48.5 (81)
Incarceration	28.6% (12)	55.6 (5)	14.3 (10)	2.2 (1)	16.8 (28)
Total	100.0% (42)	100.0 (9)	100.0 (70)	100.1 (46)	100.1 (167)

() - Represents number of people.

*The average value of residence, calculated from Statistics Canada's Census Tracts (1986) is used here as a proxy.

who had been remanded into custody until their trial. The time spent in jail was deemed by the judge to be the "sentence served".

Age

The age of an offender is generally taken into consideration only in cases of extreme youth or old age (Trudell, 1986). Table 4 shows type of sentence by age groups. The majority of both populations are between the ages of 18 and 35 years and only a very small number are under 18 years of age (young offenders).

Blacks in the largest age group are most likely to have been fined (47 percent) and, to a lesser degree, to have been incarcerated (36 percent). Non-Blacks in the largest age group, on the other hand, are most likely to have been fined (52 percent) and, to a lesser degree, to have received a conditional discharge. The small numbers in the other cells in this Table makes further analysis unreliable.

Socio-economic Status

The role that socio-economic characteristics play in sentencing has been widely discussed in the

literature of sociology and criminology. The disadvantaged are generally considered to be unfairly treated and to be in a vulnerable position in a court of law. In order to establish some measure of socio-economic status, the average value of the dwellings in the area where the offenders resided was entered as a coded value using

Statistics Canada Census Tracts (1986).

Table 5 shows that Blacks in the low socio-economic category were most likely to have been fined (57 percent). This once again raises the question of their ability to pay the fine, and prompts consideration of their possible incarceration upon failure to do so. The number of Blacks incarcerated is disproportionate considering the ratio of the two populations.

A somewhat similar situation applies to the non-Blacks, for which the largest percentage fined (51 percent) were in the low socio-economic category. The largest percentage (14 percent) of non-Blacks incarcerated were also in the low socio-economic category. Nevertheless, non-Blacks, whether of low or high socio-economic status, were clearly more likely to obtain discharges.

Table 6
Type of Sentence By Civil Status and Race

Sentence	Black		Non-Black		Total
	Married	Single	Married	Single	
Absolute discharge	0.0% (0)	0.0 (0)	15.2 (5)	9.7 (9)	7.9 (14)
Conditional discharge	9.1% (1)	17.5 (7)	15.2 (5)	31.2 (29)	23.7 (42)
Suspended sentence	0.0% (0)	2.5 (1)	6.1 (2)	1.1 (1)	2.3 (4)
Fine	63.6% (7)	45.0 (18)	54.5 (18)	48.4 (45)	49.7 (88)
Incarceration	27.3% (3)	35.0 (14)	9.1 (3)	9.7 (9)	16.4 (29)
Total	100.0% (11)	100.0 (40)	100.1 (33)	100.1 (93)	100.0 (177)

() - Represents number of people.

Civil Status

As already shown, a judge usually takes into consideration when sentencing whether the offender has a family or other dependents to support (Table 6). In examining the type of sentence by civil status (married or single), married Blacks were found to have received, to a slight degree and only as far as incarceration is concerned, lighter sentences than single Blacks. This situation does not hold true for married non-Blacks, who are just as likely as their single counterparts to be

incarcerated or fined.

Prior Convictions

In considering the previous record of the accused, the court considers the effect of the previous sentences in acting as a deterrent. If leniency has been shown previously, but the accused persists in criminal behaviour, then a harsher sentence may be considered as a deterrent. In general, though, it is assumed that the offender has paid for the previous crimes and the court will avoid punishing the accused twice. However, a judge, in perusing past offences, does see if the present offence is related to one or more of the past offences,

Table 7
Type of Sentence By Number of Priors* and Race

Sentence	Black			Non-Black			Total
	None	Less than 3	Over 3	None	Less than 3	Over 3	
Absolute discharge	0.0% (0)	0.0 (0)	0.0 (0)	17.9 (14)	0.0 (0)	0.0 (0)	7.9 (14)
Conditional discharge	40.0% (8)	0.0 (0)	0.0 (0)	38.5 (30)	16.7 (4)	0.0 (0)	23.7 (42)
Suspended sentence	5.0% (1)	0.0 (0)	0.0 (0)	3.8 (3)	0.0 (0)	0.0 (0)	2.3 (4)
Fine	50.0% (10)	100.0 (8)	30.4 (7)	37.2 (29)	70.8 (17)	70.8 (17)	49.7 (88)
Incarceration	5.0% (1)	0.0 (0)	69.6 (16)	2.6 (2)	12.5 (3)	29.2 (7)	16.4 (29)
Total	100.0% (20)	100.0 (8)	100.0 (23)	100.0 (78)	100.0 (24)	100.0 (24)	100.0 (177)

() - Represents number of people.

*No more than six priors were entered on the data sheet.

Table 8
Type of Sentence by Employment* Status and Race

Sentence	Black		Non-Black		Total
	Employed	Unemployed	Employed	Unemployed	
Absolute discharge	0.0% (0)	0.0 (0)	15.9 (10)	6.7 (4)	8.0 (14)
Conditional discharge	25.0% (3)	12.8 (5)	34.9 (22)	20.0 (12)	24.1 (42)
Suspended sentence	8.3% (1)	0.0 (0)	3.2 (2)	1.7 (1)	2.3 (4)
Fine	50.0% (6)	48.7 (19)	44.4 (28)	53.3 (32)	48.9 (85)
Incarceration	16.7% (2)	38.5 (15)	1.6 (1)	18.3 (11)	16.7 (29)
Total	100.0% (12)	100.0 (39)	100.0 (63)	100.0 (60)	100.0 (174)

() - Represents number of people.

*Employed category includes those reporting as Student. Retired is included in the Unemployed category.

and it is difficult to expect that such recurrences will go unnoticed by the bench. In such cases, priors will lessen the weight a judge gives to the reform, or rehabilitation, component of sentencing norms. Again, if the accused has been free from crime for a considerable period, the court will take this into consideration.

It is clear that Blacks with a lengthy criminal record (70 percent) were significantly more likely to be incarcerated than non-Blacks with similar records (29 percent) (Table 7). Members of both populations with no previous criminal record, as noted above, are most likely to receive a discharge, but non-Blacks more so than Blacks.

Employment

In many instances, particularly those involving pre-sentence reports and community service orders, the court is contemplating a more lenient sentence, commonly because the employment status of the offender brings up the matter of secondary penalties. Table 8 examines sentence by employment status and race. For the purposes of this study, students were placed in the "employed" category since it was assumed the court would consider their employment

future in much the same manner it would an employed individual. A strong feature of this Table is the greater number of Blacks who are unemployed. There were three times as many unemployed Blacks as there were employed, in contrast to non-Blacks where there are more

employed than unemployed. Employed Blacks were more likely than unemployed Blacks to receive a lighter sentence. This finding is similar for the non-Black sample. The unemployed of both populations were more likely to be incarcerated.

Table 9
Type of Sentence by Education* and Race

Sentence	Black		Non-Black		Total
	Low	High	Low	High	
Absolute discharge	0.0% (0)	0.0 (0)	6.5 (4)	18.5 (5)	7.0 (9)
Conditional discharge	12.1% (4)	42.9 (3)	22.6 (14)	48.1 (13)	26.4 (34)
Suspended sentence	0.0% (0)	14.3 (1)	1.6 (1)	7.4 (2)	3.1 (4)
Fine	42.4% (14)	42.9 (3)	58.1 (36)	25.9 (7)	46.5 (60)
Incarceration	45.5% (15)	0.0 (0)	11.3 (7)	0.0 (0)	17.1 (22)
Total	100.0% (33)	100.1 (7)	100.1 (62)	99.9 (27)	100.1 (129)

() - Represents number of people.

*Low education level includes all those who have not completed high school and all others are included in the High category.

Education

The employment prospects of an offender may be damaged by receiving a criminal conviction by excluding them from entering certain educational programs. Appeals to the court are often made for leniency if the offender claims to be considering, or is embarked on, a program of study. Again, criticism has been levelled at the courts by social scientists who argue that only the affluent can take advantage of such programs and that the economically disadvantaged are discriminated against for not having the educational background, or the financial support, to pursue such

educational attainment.

The lower educational level of the Black sample and their greater likelihood of being incarcerated are demonstrated in Table 9. The small numbers in this Table for the Black sample prevents any conclusive analysis. Non-Blacks in the low education category were most likely to be fined and those in the high category were most likely to receive a conditional discharge. On the surface, the educational level of the offender appears to have made a difference in the sentencing for this offence.

Counsel

It is the responsibility of counsel to see that the client's interests are served during the sentencing hearing. For example, although the suspended sentence and the conditional discharge are, as a matter of penalty, very similar, it would be up to counsel to make a case that the secondary penalty (say, affecting employment) to the client would be sufficient to merit the lighter sentence.

Again, counsel may point out the client's inability to pay a fine, the harshness of an optional incarceration, but also the client's willingness to do community service work, thus making a suspended sentence or discharge an acceptable alternative. This is usually conveyed by counsel to the bench by suggesting that a pre-sentence report be requested, and by indicating the circumstances which would indicate that a discharge or suspended sentence would be more appropriate.

Counsel's role in sentencing should be active, not passive, but in such a way as to not circumscribe, or even to give the appearance of circumscribing, the authority of the bench to pass sentence. It is often the case, however, among better judges, that the circumstances pertinent to sentencing are solicited from counsel prior to sentencing. Many judges feel the responsibility of passing a fair and just sentence adequate to the offence is somewhat alleviated by including the opinion of counsel prior to sentencing, since the interests of the accused are presumably thereby included in whatever sentence is meted out. It also satisfies the judge that all information pertinent to the sentencing has indeed been considered.

All this must be considered, too, in the context of a request by the Crown for a particular sentence. The judge must weigh all these factors. Some judges like passing a sentence agreeable to all; others

operate more autonomously.

The effect of having legal representation is demonstrated in Table 10. While Blacks with no counsel and those with counsel from Nova Scotia Legal Aid did not differ by percentage in avoiding incarceration, having counsel is associated with the greater likelihood of discharge. It should be noted here that, because of the demands put on the resources of Nova Scotia Legal Aid, first offenders are often not represented, since available counsel is reserved for those clients who are facing a more severe sentence and possible incarceration; this would account, in part, for the

association of legal aid representation with harsher sentences. Among non-Blacks, private counsel was strongly associated with more lenient sentences while the advantages of having or not having

Table 10
Type of Sentence by Type of Counsel and Race

Sentence	Black			Non-Black		
	None	NSLA*	Private	None	NSLA	Private
Absolute discharge	0.0% (0)	0.0 (0)	0.0 (0)	8.7 (6)	11.8 (6)	33.3 (2)
Conditional discharge	3.8% (1)	28.0 (7)	0.0 (0)	24.6 (17)	29.4 (15)	33.3 (2)
Suspended sentence	3.8% (1)	0.0 (0)	0.0 (0)	0.0 (0)	3.9 (2)	16.7 (1)
Fine	57.7% (15)	40.0 (10)	0.0 (0)	59.4 (41)	41.2 (21)	16.7 (1)
Incarceration	34.6% (9)	32.0 (8)	0.0 (0)	7.2 (5)	13.7 (7)	0.0 (0)
Total	99.9% (26)	100.0 (25)	0.0 (0)	99.9 (69)	100.0 (51)	100.0 (6)

() - Represents number of people.

*NSLA refers to Nova Scotia Legal Aid.

Table 11
Type of Sentence by Presence of Pre-Sentence Report and Race

Sentence	Black		Non-Black		
	Yes	No	Yes	No	Total
Absolute discharge	0.0% (0)	0.0 (0)	16.7 (6)	8.9 (8)	7.9 (14)
Conditional discharge	75.0% (6)	4.7 (2)	63.9 (23)	12.2 (11)	23.7 (42)
Suspended sentence	0.0% (0)	2.3 (1)	2.8 (1)	2.2 (2)	2.3 (4)
Fine	25.0% (2)	53.5 (23)	13.9 (5)	64.4 (58)	49.7 (88)
Incarceration	0.0% (0)	39.5 (17)	2.8 (1)	12.2 (11)	16.4 (29)
Total	100.0% (8)	100.0 (43)	100.1 (36)	99.9 (90)	100.0 (177)

() - Represents number of people.

legal aid representation were not ascertainable since other variables such as the number of priors, employment status, et cetera, were not simultaneously controlled for.

Pre-Sentence Reports

A Pre-sentence Report (PSR) or Community Service Order (CSO), may be requested by the court to assist in sentencing. These reports are submitted to the bench after the presentation of evidence against the accused.

The PSR is usually written by a probation officer, who assesses - on the basis of interviews with the

offender, his or her parents, relatives or other pertinent persons-character, social situation, social attitudes, and in fact anything in the accused's life that might be relevant to the sentencing. It may be requested by a judge (if the offender is unrepresented), but is more often requested by counsel in hopes that a positive report will ameliorate the sentence the client would have received in the absence of such a report. Part of the effect of the PSR is to personalize the offender to the judge which in and of itself usually has a mitigating effect on sentencing if the report is at all positive.

The PSR and the CSO are identical with the exception that the CSO has been specifically requested to ascertain if the offender is able, or merits, a sentence which includes community service work. The PSR is more general in application, although little more so in content, and is the one more commonly requested prior to sentencing if and when it is relevant.

Since the discharge and the suspended sentence are arguably the lightest sentences, the PSR is requested by counsel when there is the possibility of some harsher sentence being passed, by the bench when there is some question whether or not the offender is capable by circumstances and character of complying with the conditions of a sentence, or lastly (by the bench) to ascertain whether or not the offender merits such a sentence at all (as in the case of an absolute discharge). PSR's are almost always favourable.

Our study shows that Blacks with pre-sentence reports were most likely to receive a conditional discharge (75 percent) and those with no report were most likely to be fined (54 percent) (Table 11).

Non-Blacks with pre-sentence reports were also most likely to receive a conditional discharge (64 percent) and those without one to be fined (64 percent).

Pre-sentence reports are generally not requested for frequent offenders, and so their influence on those who were incarcerated (mostly frequent offenders) cannot be estimated. An overall examination of this Table shows that Blacks are disproportionately less likely to have had the benefit of a pre-sentence report.

Discrimination in Sentencing

Our quantitative analysis of sentencing has indicated that the most likely event in which overt discrimination may have occurred is in the granting of absolute discharges. We will now examine this finding in greater detail.

Examining the profile of cases of absolute discharge, one finds that the age of those non-Blacks who received absolute discharges was typically between 18 and 35, although there was a spread over all age categories. They were most likely to have low socio-economic status, to be single and employed, to have a high level of educational attainment, to have had counsel, but more likely not to have had the benefit of a pre-sentence report. In an attempt to analyze this situation more closely, a boolean matrix was generated to determine by vector-comparison if any member of the Black sample had a profile (on all variables) exactly similar to any of the non-Blacks who had received absolute discharges and, consequentially, "should" also have been eligible for this sentence.

The relevant variables from the study were arranged, for each case, in vector-fashion. A comparison matrix was formed for all those cases receiving absolute discharge (14). The remaining cases (163) were taken one at a time and compared on a case by case, vector by vector basis with the discharge cases. This procedure produced a boolean matrix which allowed comparison of all cases for all variables on the basis of those values possessed by the discharges.

For all variables considered in the study, there were no exact matches from the subsample of Blacks; that is, the vectors representing the values of the study variables differed in significant ways from the discharge vectors.

There were six exact matches in the non-Black subsample, suggesting that, with regard to the variables studied, six non-Blacks were eligible for discharge but did not receive it.

A second run of boolean comparison was carried out with a subset of the study variables (*viz.*, age, priors, education, and employment). It was considered that this smaller set of variables constituted the most obvious criteria by which sentencing leniency is justified. In

this comparison run there were six matches between the Black subsample and the discharge group. The boolean matrix allowed us to identify the exact location of the differences between the restricted and general matrices. For the Black subsample the differences were primarily in the factors one would have anticipated to be relevant to absolute discharge; namely, a plea of not guilty or an unfavourable pre-sentence report. To this extent we felt that we had satisfactorily accounted for the observed fact that no Blacks received absolute discharges in terms of the court process itself. It must be noted, however, that this leaves open the question of whether or not the study variables were merely proxies for structural discrimination which was operative before the accused arrived in court.

A similar run with the subset was carried out with the non-Black subsample. In this run there were 35 exact matches, suggesting again that many non-Blacks were eligible, on the basis of the restricted set of variables, for absolute discharge but did not receive it. What most attracted attention was that a perusal of the comparison matrix showed that the relevant criteria which accounted for these 35 not being exact matches for the complete vectors were not legalistic, as in the case of Blacks, but were clearly socio-economic. For example, many differed solely with regard to status as determined by living address. This suggested to us that the relevant differences with regard to non-Blacks were differences immediately issuing from their class-status rather than a lack of successful outcomes of, for example, pre-sentence reports.

We hesitated to draw any further conclusions from the boolean comparisons, except that socio-economic factors appeared to be directly relevant to obtaining an absolute discharge. That is to say, even in the case of the Black subsample, although employment status did not directly account for missed matching, the pre-sentence report which did account for missed matches contains significant portions which address and evaluate the offender's socio-economic status. In this sense, the relevance of socio-economic status was directly visible for non-Blacks, whereas this same factor could appear for Blacks under the, now, proxy variable of a pre-sentence report.

The implications from this boolean matrix comparison are that there are often other persons with attributes similar to those receiving absolute discharges who themselves are not so favoured. Precisely how common this is depends in large measure on the number of variables matched. On a purely individual level non-Blacks and Blacks alike are affected. Still it needs to be reemphasized that no Blacks received an absolute discharge. Moreover, it is clear that having counsel, being employed and possessing relatively high educational attainment are all associated with absolute discharge. For each of these factors there is evidence that Blacks are systematically

Table 12
Results of Regression Analysis
Using Type of Sentence
(Discharges and Others)
as the Dependent Variable

Predictor Variables	Beta Weights	Level of Significance
Prior convictions	.48	.000
Education	-.32	.001
Age	.16	.01

deprived in society which suggests that the justice system may operate with a structural bias against Blacks. The boolean analysis does not allow us to conclude that, structurally, there is no racial discrimination in sentencing.

Regression Analysis

A regression analysis was performed to examine the predictability of those variables (priors, education, age, civil status, race, socio-economic status, counsel, and employment) considered influential in sentencing, together with the type of sentence received (discharges and others). At the zero order correlation level, the only variables found to be related were priors, education, employment and age.

When all the variables were entered into a stepwise regression analysis, only priors, education and age were found to be significant. These variables were able to explain 33 percent of the variance.

Conversion of the coefficients produced in the regression analysis into beta weights allowed comparison between the independent variables regarding their respective effectiveness as predictors. The beta weights and levels of significance are shown in Table 12.

Summary

The focus of this study has been sentencing disparity in the Nova Scotia criminal justice system. The sample ($n = 177$) has been drawn from Black ($n = 51$) and non-Black ($n = 126$) males charged and convicted under Section 294 of the *Criminal Code*.

The Black subsample typically showed higher levels of unemployment, lower levels of educational attainment, to be more likely to have come from a lower socio-economic background, and to have had a greater number of prior convictions.

Examination of the type of sentence received by race has shown that of the total number (14) of absolute discharges received, none were granted to Blacks. A disproportionate number of non-Blacks also received conditional discharges. Blacks are significantly more likely to be incarcerated.

Both Blacks and non-Blacks in the low socio-economic category were more likely to have been fined, which raises the question of their ability to pay a fine and of what percentage have been jailed for non-payment, creating a *de facto* "debtors prison". Non-Blacks in the high socio-economic category were slightly more likely to have received a discharge.

Our analysis of the role played by prior convictions in the type of sentence received has shown that Blacks with a lengthy criminal record were significantly more likely to be incarcerated than

non-Blacks with a similar record. As would be expected, offenders with no prior convictions were most likely to receive a discharge, but non-Blacks more so than Blacks.

The presence of a pre-sentence report or community service order has been shown to be of value to the accused as it most usually presents the offender in a positive light. Non-Blacks in our sample were more likely to have had the benefit of these reports, a factor which has been shown to have had a significant impact on the granting of discharges.

A boolean comparison matrix was generated to determine if discrimination was present in the granting of absolute discharges. No Blacks were found with profiles which exactly matched the profiles of those non-Blacks who had received absolute discharges. Six non-Blacks were discovered who had exactly similar profiles and in essence should have been eligible for the more lenient sentence. Construction of a second boolean matrix, with a restricted set of variables, disclosed six Blacks with profiles which matched those non-Blacks who received absolute discharges. When comparison was made with this restricted matrix for the remainder of the non-Black population a further 35 patterns were found which matched.

The implication here is that there are often other individuals, Black and non-Black, with attributes similar to those who receive absolute discharges who are not so favoured. The factors which are associated with absolute discharge, such as having counsel, being employed, and having high educational attainment, have been shown to be those of which the Black population is deprived. The boolean matrix, therefore, may be indicating the existence of a form of structural discrimination.

A stepwise regression analysis was performed which showed that prior convictions, educational attainment, and age were the best predictors of whether an individual would receive a lenient sentence (discharge) or a harsher sentence (suspended sentence, fine, or incarceration).

A possible limitation of this study is the small size of the Black subsample, which restricted the degree and type of analysis performed, although in some areas we feel that the analysis has been sufficient to allow some conclusions to be drawn from the data. For example, structural discrimination entering the courts from the larger society may preclude Blacks and non-Blacks alike from receiving the benefit of an absolute discharge. There is also an indication that Blacks, with previous record controlled for, are more likely to be incarcerated.

A further limitation of the study may be that the section of the *Criminal Code* selected for our study may not have been the best one to demonstrate the existence of disparity in sentencing. As we have

already shown, Blacks are more likely to be incarcerated and therefore the selection of a crime which results more readily in incarceration would perhaps have been more fruitful.

Concluding Observations

The cases which appear in our study were selected after a detailed inspection of over 1,000 files, both active and in the archives, of the Nova Scotia Crown Prosecutor's office.

In these files were most of the documents relevant to the case, although, as we have mentioned elsewhere in our study, the absence of information in places where it was required to be entered made our data collection more arduous than it need have been. Among the more important documents inspected were the Information (accusation) laid by some informant (usually a police officer), the "Confidential Instructions to Crown" (in which all details pertinent to the prosecution of the accused in court were assembled), the police "Occurrence Report" (documenting an investigation or arrest regarding the case at hand), the pre-sentence report (if any), the community service order (if any), transcripts of court proceedings, testimony of the police officers and witnesses, and the accused's statement (if any).

Above and beyond any of the results reported in this study, a number of impressions not readily quantifiable were gathered as a consequence of our reading these documents. We offer below the more important of these in hopes they will provide other researchers with suggestions for further study.

1.

It seemed clear to us from the statements of the police officers included in the files that Blacks - at least that group represented in our sample - understood themselves to be in an adversarial relationship with the justice system. The conversations and behaviours reported by the police indicated that before any significant action had been taken regarding the incident of the case, the Black suspect(s) felt a need to aggressively, or at least strongly, defend themselves before what was conceived to be a known adversary.

This became especially apparent when contrasted with the reportage regarding non-Black (essentially White) cases. Even when controlling for the severity of the offence under investigation, the circumstances surrounding the case (which surprisingly did not differ significantly), and the socio-economic status of the suspect, the behaviour of non-Blacks, although occasionally surly, never amounted to what appeared to be a consistent group attitude towards law enforcement officers. This was even more apparent in the

courtroom. Non-Black defendants appeared to be more aware of the tactical nature of the legal proceedings and changed their behaviour accordingly, whereas Blacks consistently maintained an adversarial stance throughout the court proceedings. The impression was that the adversarial relationship first encountered with the police was merely a part of an overall attitude towards the entire system governing the administration of justice.

Whether this adversarial attitude issues from the particular experiences of those involved with the law, or issues as a matter of socialization into a particular Black subculture whose attitudes are derived from an attempt to understand what appears to be a more or less permanently disadvantaged position within society - or both of these - are questions which merit consideration.

2.

As explained above, the discharge was initially created in 1972 to deal with first offenders. The principle idea behind its creation was that of secondary penalties; namely, that the social stigma associated with a criminal conviction can, and does, affect the livelihood of an offender to such an extent as to constitute an indirect sanction considerably more severe than the direct sanction represented by the sentence. Although it is not a burden put upon the law that it should take this into account in sentencing, it was recognized that in the case of first, and perhaps one-time, offenders such a secondary penalty should be taken into account when it is apparent that the offender will suffer consequences far beyond those issuing from a contemplated sentence.

This matter was originally dealt with by the suspension of sentencing. However, although it allowed the offender to avoid incarceration or the payment of a fine (which might draw attention to the case), the offender was still recorded as having been convicted of an infraction of the *Criminal Code*. This is an important point: the principal focus of secondary penalties is employment, and the usual form of the relevant question on applications or criteria for employment is based on having a conviction - as opposed to having a criminal record. A discharged person can truthfully answer that he or she has never been convicted of a crime (although such a person will still have a criminal record).

Although being convicted of a crime is generally viewed poorly by society, this view is more consequential in some circumstances than in others. It is especially consequential for a few specific kinds of employment (such as those requiring security clearance), but generally true for those jobs that constitute the positional property of society's middle class. That is to say, when the intent of the discharge is joined with the employment structure of our society, it becomes

apparent that discharges have greater consequences and are of more utility for the middle class or those aspiring to the positions normally associated with this class.

One possibly fruitful avenue of research would be to ascertain to what extent this may be true, and to evaluate the possibility that the discharge may, in part, have been the creation of a class seeking to protect itself from its own employment requirements in the event of an occasional infraction of the Code. This is not an unimportant matter, since eligibility for a discharge is not confined to shoplifting or other such minor infractions; it is available to all those judges considering infractions of the Code not specifying a minimum sentence or a maximum of 14 years or life.

Aside from possible future research, this also suggests that the results of our study, and others such as Renner and Warner (1981), although significant in their own right, must be approached with caution. If, as our impressions consistently suggest, the dislocations of our society - the employment structure and the educational attainment associated with it, the partial class monopoly on specific sorts of positional property, the historically disadvantaged position of entire subcultures, and so on - are imported whole or in part into the courtroom, especially that part relevant to sentencing, then the administration of justice would reflect these dislocations, and to that extent would partially assist in their preservation and continuation.

3.

Finally, as a particular point of further research following from these observations: an infraction of the Code such as that falling under Section 294 may not be of sufficient gravity to set in motion the type of phenomena we have sought to capture. It seems, from what has been said so far and the results of the survey forming part of this report, that racism is less a personal matter than it is a structural feature of the society as a whole. The minor nature of the offence represented by Section 294 may not excite in those participating in the court process any significant dispositions one way or the other, which is itself one of the bases of fairness. On the other hand, a study of an offence such as sexual assault, whose gravity and repugnance excite in us significant responses towards the accused, may provide the occasion for the emergence of dispositions which would reflect in a more direct manner structural discrimination. An initial perusal of the data suggests that not many convicted of sexual assault are discharged (there are various subsections of the assault section in the Code) nor are there fines. The usual result of a conviction is incarceration. This circumstance would allow the evaluation of not only structural determinants of discrimination but also an independent evaluation of the often asserted maxim that Blacks receive "more time for the same crime".

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5

Discrimination in Sentencing: Patterns of Sentencing for Assault Convictions

Using section 245 [now 266] and 246 [now 270] (assault) of the *Criminal Code*

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Introduction

Discrimination and Sentencing: Theory and Issues

Certainly one of the most widely debated issues in the criminological literature concerns the extent to which there is racial bias in the administration of justice. Race is taken essentially as socially defined. The question of bias extends throughout all dimensions/spheres of the criminal justice system. The American literature has focussed especially upon discrimination against Blacks (and increasingly of late discrimination against Hispanics). In Canada, given the small black population prior to recent immigration, the bulk of the literature has dealt with the issue of anti-Native bias.

In the area of sentencing the debate rages on (*e.g.*, Hawkins, 1987) despite the considerable improvement in the quality of data sets and in the methodologies employed (*e.g.*, controlling for relevant variables, use of sophisticated causal or process models). Key variables which must be controlled for in evaluating discrimination in sentencing have been identified; in addition to race, sex, age and region these include the number, type and recency of prior criminal convictions, the legal embeddedness of the case (*e.g.*, whether the accused is already under sentence), the seriousness of the offence, pre-sentence reports and dependency (*i.e.*, whether the offender is caring for dependents). The issues now focus largely on measuring the more subtle indirect and often statistically insignificant but cumulative ways in which racial bias operates to affect sentencing, and conceptualizing the nature of racial bias in the context of social class (*i.e.*, both economic and cultural factors) and the increasing formal rationality of modern society. Overall overt, direct racial bias in sentencing, whether in the United States or Canada, is seen to have been significantly attenuated (Hagan, 19; Kleck, 1981; Zatz, 1987; Hacker, 1988).¹

The social class aspect of the sentencing controversy is rooted in the fundamental premise that insofar as equal protection of the law is a commodity which must be purchased then this equality cannot be anything but a legal fiction as long as resources for such a purchase are distributed in a profoundly unequal fashion (Kleck, 1981). Social class factors clearly structure the resources, economic and other, that affect sentencing. As Zatz observes, "social groups differ not only in their abilities to shape and define deviance but also to mobilize resources once involved in the legal system" (Zatz, 1987, p.84). From this perspective it would be expected that social class factors would have both direct and indirect affect on sentencing. Directly, the impact would be via judicial bias; indirectly, the impact would be

1. For an excellent overview of successive "waves" of research dealing with racial/ethnic bias in sentencing, see Zatz (1987). Zatz identifies four waves wherein different issues and styles of research could be identified. In the current, fourth wave in the adopted by legislatures "studies show subtle, if no longer overt, bias against minority defendants" (p. 70). These new Policies have shifted more discretion to the prosecutor (*e.g.*, charges laid and plea bargaining).

via defence strategies, legal resources and personal offender assessments. The low social class background of most Blacks and Natives, quite apart from racism, would clearly disadvantage them according to this theory. Presumably racial bias would augment that disadvantage.

Weber's depiction of the increasingly formal rational organization of modern society has generally been adopted by modern sociologists (Parsons, 19; Marcuse, 19). The implications for the issues at hand are that the values and procedures or rules of social organization are increasingly universal, impersonal and bureaucratic. In addition to being detailed and written they are presumably regularly monitored. In this context it would be expected that race bias would be less and less overt and more and more to be found through appreciation of rule setting and interpretation (*e.g.*, why this rule? who sets and benefits from these "rational" policies?) and differential resources be they economic, informational or social (*i.e.*, access). Even social class effects in sentencing would presumably be increasingly indirect and "masked". Clearly such a system favours some individuals and groups and disadvantages others. Weber himself observed that "formal justice guarantees the maximum freedom for the interested parties to represent their formal legal interests. It is precisely this abstract character which constitutes the decisive merit of formal justice to those who wield the economic power at any given time and who are therefore interested in its unhampered operation" (Zatz, *op.cit.*, p 85).

Overall then it can be expected that race/ethnic bias is becoming more inextricably tied to social class factors which in turn become increasingly "laundered" in formal rational rules and policies. What stays the same according to most criminologists is that the poor, and especially Blacks and Natives, get convicted and incarcerated. Justice in a substantive rather than a formal rules/criteria sense receives less heed. What's to account for special leniency: future contribution to society which under the circumstances favour the socially advantaged, or what Hacker (1988) describes as "the sheer strain of such an existence (that of the urban poor Blacks in the United States) which takes its toll in many ways"? Issues of the quality and substance of justice would suggest the need for a more "proactive justice system" just as sensitivity and fairness as regards the implications of rules and policies would seem to require less control by special class or race interests.

Previous Research

A recent poll in "Time" (August 8, 1988) indicated that only 28 percent of the Blacks questioned felt that the courts are evenhanded toward White and Black defendants. Recent research has established that both Blacks and non-Blacks in Nova Scotia perceive discrimination to be significant here. The criminal justice system is not exempt from this accusation. The Head/Clairmont report (1989) indicates that police are generally perceived as treating Blacks less fairly. As for the courts, close to 50 percent of Blacks and 33 percent of non-Blacks in the survey report the perception that here too Blacks are treated less fairly. While non-Blacks and Blacks over 55 years of age are more likely to consider discrimination to be on the wane, a surprising number are less optimistic. Interestingly the study also shows that the perception of discrimination and the lack of optimism is common too among those Blacks most familiar with the operation of the courts (*e.g.*, lawyers). Typically these persons report the racism to be subtle and implicit (rather than overt) in language, understandings and expectations (*ibid.*, pp.40-46). Spectacular or special instances of how such racism or discrimination manifests itself in lenient or harsh sentencing have been cited in the Royal Commission on the Donald Marshall, Jr., Prosecution as well as in recent publications (*e.g.*, Harris, 1984; B.U.F., 1988).

Research conducted into sentencing as part of the Royal Commission focussed on convictions for theft. It was addressed to the question: "Do Blacks convicted of the same offence receive the same sentences as non-Blacks and if not, what factors account for the difference?" The relatively small sample - 51 Blacks and 126 non-Blacks - consisted of many first offenders and most sentences were fines or discharges. Blacks were less likely to obtain discharges and more likely to be incarcerated than non-Blacks. The differential sentencing held up when prior convictions and a few other variables were controlled for. In the case of absolute discharge no Blacks were granted one while 14 percent of the non-Black offenders were. Analyses indicated that while a "legal" factor such as type of plea usually differentiated persons getting such a discharge from those not getting one, there was some evidence that socio-economic factors were also important.

The theft study was interesting and suggestive but it was flawed in several key respects as regards its relevance for the issue of discrimination in sentencing. Data were not collected on variables identified as crucial in the literature on sentencing such as the recent prior convictions and the actual type of priors (whether related or not). Other important missing data included the embeddedness of the case (*e.g.*, whether the offender was already under sentence) and

whether the offender had dependents. Theoretically too the focus on theft was limiting since theft is largely an impersonal type of offence and does not tap the interpersonal relations often giving rise to discrimination; nor for that matter does it tap the issue of devaluation of race (i.e., the differential sentencing depending on the victim's race). For these and other reasons it was deemed useful to consider all recent assault convictions. Assault cases generally are more serious offences than theft, involve interpersonal relations, and facilitate a broader examination of the discrimination thesis.

Figure 1

Coding Considerations

It is the objective to obtain the following information on the cases selected for analysis.

1. I.D. (a six # Case code) _____	17. Legal Rep: no = 1; legal aid = 2; private = 3 _____	33. Embeddedness C: on probation/parole; yes = 1; no = 2 _____
Name (uncoded) _____	18. Type of Court: county = 1; supreme = 2; mag = 3; prov = 4 _____	34. PSR* ? yes, very pos = 1; yes, fair = 2; dk = 3; yes neg = 4; no = 5 _____
Address (uncoded) _____	19. Jury? no = 1; yes = 2; unclear = 9 _____	35. PSR? accepts blame; yes = 1; no = 2 _____
2. Precise Charge: (an 8 field code) . 245.1 to 246 _____	20. Plea: not guilty = 1; changed to guilty = 2; guilty = 3 _____	36. PSR? shows remorse; yes = 1; no = 2 _____
3. Age: year of birth _____ 19	21. Victim's race: Black = 1; non-Black = 2; Native = 3 _____	37. PSR? social environ negative; yes = 1; no = 2 _____
4. Date of Offence (month, year) _____ 19	22. Victim's Sex: male = 1; female = 2 _____	38. PSR? attitude/alcohol or drug problem? yes = 1; no = 2 _____
5. Date of Sentence (month, year) _____ 19	23. Victim's age: date of birth _____ 19	39. Pre-sentence atonement (money/apology etc); yes = 1; no = 2 _____
6. Race: Black = 1 Non-Black (excluding Native) = 2 _____	24. Relation to Assaulter: kin = 1; acquaint = 2; other = 3; no = 4 _____	40. Sentence: MAIN disch = 1; susp sent = 2; fine = 3; incarc = 4 _____
7. Marital Status single = 1; married (or common law) = 2 separated/divorced = 3; widowed = 4 _____	25. Injury? ser & per = 1; ser & < per = 2; not ser = 3 _____	41. Sentence: fine? yes = 1; no = 2 _____
8. Dependency A: caring for kids; yes = 1; no = 2 _____	26. Special Severity Circumstance (WRITE IN) yes = 1; no = 2 _____	42. Sentence: probation? yes = 1; no = 2 _____
9. Dependency B: caring for others; yes = 1; no = 2 _____	27. Special Leniency Circumstance (WRITE IN) yes = 1; no = 2 _____	43. Sentence: community service? yes = 1; no = 2 _____
10. Education A: last year formal schooling completed _____	28. Priors? code from 0 to 8 (leaving 9 for dk) _____	44. Sentence: restitution? yes = 1; no = 2 _____
11. Education B: any trade credentials; yes = 1; no = 2 _____	29. Related Priors? (ie B&E plus any violence code) _____	45. Sentence: treatment? yes = 1; no = 2 _____
12. Employment A: working; yes = 1; no = 2 _____	30. Year of last conviction _____ 19	46. Length of time incarcerated - from 0000 to whatever in days _____
13. Employment B: type of job _____	31. Embeddedness A: other charges/avoid add-ons; yes = 1; no = 2 _____	Comments _____
14. Judge's name _____	32. Embeddedness B: already under sentence; yes = 1; no = 2 _____	_____
15. Prosecutor's name _____		_____
16. Defence counsel's name _____		_____

*PSR refers to Pre-sentence report.

Analysis and Findings

The Data Set

For this project data were gathered and coded for all males convicted of and sentenced for assault in the metropolitan Halifax-Dartmouth area over the period from roughly 1987 to the present. The phrase "roughly 1987" is employed since the researchers had access to all court files involving assault that were still in the Crown Prosecutor's office and had not been sent to storage; very few pre-1987 files were thus readily available. While virtually all sentences were rendered in the years 1987 and 1988, most offences occurred in the years 1986 and 1987. The sample of 221 males represents almost the total population of convicted metropolitan male assault offenders for the period in question. A handful of males convicted for child abuse were excluded from the analysis and an equally small number of offenders (all apparently non-Black) were excluded due to data problems. Three cases were dropped since they involved repetition of the charge and the victim. The number of females convicted of assault over the same period was less than a handful so they were also excluded. Finally three young offenders, aged 16 or less, were also dropped from the analysis.

2. Pre-sentence reports usually contain materials obtained by a court worker probation officer from interviews with the offender, his family, employer and others and from examination of school, police and other records. A portrait of the offender is provided for the sentencing judge. While such a report may be requested by judge or attorney it is often considered to be an advantage for the offender and accordingly the onus is on the offender, and indirectly his counsel, to cooperate fully. The absence of a pre-sentence report generally means that neither judge nor lawyer requested one but it could also mean that the offender did not cooperate.

Figure 1 - Coding Considerations (on previous page) - indicates the variables utilized in this study and how each variable has been coded. For the most part appropriate data were available though the court dockets had to be searched carefully in the light of acronyms, illegible scrawlings and cryptic comments - understandable since the dockets were in-house documents, not reports neatly done up for outside researchers; indeed the fact that they were not "sanitized" was often beneficial in our appreciating aspects of the case at hand. The most serious short-fall concerned the absence of a pre-sentence report in precisely 50 percent of the cases.² Where the latter was unavailable it was usually impossible to obtain information on remorse, alcohol or drug addiction and social environment; also the absence of a pre-sentence report reduced the likelihood of data on education and employment and necessitated more sleuthing and checking by the researchers on such basic facts as the sentencing judge. (This was largely because the pre-sentence report always neatly listed basic data such as the trial judge, the prosecutor and defence counsel on its cover sheet). Two additional data problems deserve attention. Race itself was rarely noted in the court dockets/prosecutorial files; consequently, while always ultimately successful, considerable effort had to be expended looking for clues in the files and consulting local police records. Of course the issue of race identification is a thorny one for reasons of theory, practicality

and social policy. Secondly, information on "remand", a factor that could influence subsequent sentencing (*i.e.*, if a person has been incarcerated pending the outcome of his/her current case that might be taken into account by the judge in his/her sentencing), was difficult to decipher so it was not utilized. Overall the quality of the data was quite good and little missing data resulted. Apart from considerations noted above with respect to pre-sentence reports, missing data on education and job status were the only significant shortfalls; the former was a problem only in the case of non-Blacks where educational data was missing for 20 percent of the grouping while the latter was a problem for both groupings.

Figure 2: Map A
Nova Scotia Blacks, 1980



Table 1
Descriptive Profile, Males Convicted of Assault 1986 to Present, by Race

Personal Characteristics	Total Population N=221	Non-Blacks N=170	Blacks N=51
Age 25 years plus	53%	54	51
Single	60%	59	65
Separated/Divorced	9%	8	10
Dependent Children	27%	24	35
H.S. Graduate/Plus	16%	22	0
Trade Credentials	14%	16	8
Employed	48%	53	31
"Low" Job Status	80%	77	95
Offence Characteristics			
High Severity Charge*	70%	70	67
Victim Non-Black	90%	95	75
Victim Female	44%	41	56
Victim Stranger	52%	52	51
Serious Injury	44%	46	36
Embeddedness**	30%	27	38
Special Leniency	7%	9	2
Special Severity	6%	8	0

*High severity charges are defined as indictable carrying a maximum imprisonment beyond five years.

**Embeddedness here refers to the presence of other charges laid against the offender.

3. Because so many offenders were unemployed and pre-sentence reports were unavailable for so many, it was possible to assess the type of work usually engaged in by the offenders in only 16 cases among the Black grouping and 87 cases among the non-Blacks. Roughly half of the known Black cases fall into the basic unskilled job category while a third of the known non-Blacks cases did so. The unemployed would likely also be in that category.

Basic Patterns

Certainly the most basic point about the data patterns is that Black males were disproportionately represented among the population of males convicted of assault. About 22 percent of this population was Black whereas in the larger metropolitan population the proportion of Blacks is probably no more than five percent and more likely about three percent. Figure 2 indicates that the known Black population in the whole of Halifax county in 1980 was less than 10,000 while the total population of metropolitan Halifax alone exceeded 275,000. Undoubtedly a good portion of

the Black over-representation in these court records has to do with socio-economic status as will be discussed below.

Table 1 provides a descriptive profile of the male assault offenders. It is clear that low socio-economic status is a basic characteristic. Virtually 80 percent of the total population for whom employment could be determined (whether at the time of sentencing or previously) worked at semi-skilled or unskilled jobs; in the case of Blacks the figure rose to 95 percent.³ Only half the non-Black offenders were employed at the time of sentencing and less than one-third of the Blacks. Just one quarter of the non-Blacks had graduated from high school and not one of the Blacks had. Few males had any specific trade credentials. Blacks and non-Blacks were reasonably alike in terms of age and marital status (mostly single and in their twenties) but Blacks were somewhat more likely to report having to care for dependent children. In sum low socio-economic status is strongly featured in the population of males convicted for assault and Blacks in particular experienced that condition as most were unemployed and without significant educational or trade credentials. Apart from the job status variable there was little missing information so there is little ambiguity concerning the above patterns.

Characteristics of the assault offence itself are also presented in Table 1. There it can be observed that roughly two-thirds of the cases, from all groupings, involved charges of high severity, that is

Table 2
Legal Profile, Males Convicted Of Assault 1986 to Present by Race

Characteristics	Total Population N=221	Non-Blacks N=170	Blacks N=51
High Severity Charge	70%	70	67
Legal Aid Used	67%	65	74
Private Legal Service	27%	31	16
Magistrate Court	60%	58	68
Jury Involved	13%	13	12
Not Guilty Plea	41%	39	46
No Priors	30%	34	18
3+ Priors	44%	39	58
2+ Related Priors	32%	29	42
Prior Since 1983	56%	52	62
Other Charges Laid	30%	27	38
Under Sentence	12%	7	29
Probation/Parole Violation	14%	14	14
Favorable PSR*	34%	37	24
Incarceration**	46%	44	55

*PSR refers to Pre-sentence report.

**Incarceration refers to a jail term of more than one day.

4. About 1,000 assault offences each year are recorded by the Halifax Police Department alone. HPDs reported 70 percent clearance rate reflects largely the "cleared otherwise" categorization. For example, of the 1,000 cases in 1985, 513 were cleared otherwise, and only 217 were cleared by charge. For the cities of Halifax and Dartmouth combined, over the period of 1985 to 1987 a total of 950 assaults were charged. Approximately 275 of these were of the low severity type. The largest category by far of assault charges was assault with a weapon/causing bodily harm which accounted for 450 of the 950 charges for that period.

may well be that "not charging" is as common as "overcharging".⁴ In any event the relatively small number of cases forced researchers to group the assault charges into two larger categories of less and more severe rather than work with a wider classification.

The victims of assaults, whether by Blacks or non-Blacks, were overwhelmingly non-Blacks though Blacks assaulted other Blacks in one quarter of their offences. Interestingly about half the assault victims were strangers to their offender, a statistic that did not vary across groupings. In the case of Black offenders the victim was more likely to be female and the injury caused less serious. There were few cases in this sample where special leniency (e.g., a strongly provoked assault) or special severity circumstances (e.g., assault of a pregnant woman) could be identified. Black offenders were somewhat more likely than their non-Black counterparts to have confronted other charges along with the assault charge. In sum apart from the fact that the victim in this predominantly non-Black metropolitan region was usually non-Black, there was quite a bit of variation in offence characteristics. Males and females, strangers and kin/acquaintances, serious and non-serious injury, embeddedness or lack thereof were well represented as victims or conditions and differentiation by Black/non-Black offender groupings was only modest at best.

Table 2 focusses on the legal aspects of each assault case. As might be expected on the basis of the earlier analysis of socio-economic status, the male offenders, especially the Blacks, depended heavily upon legal aid services. Private legal services were engaged only in 31 percent of the non-Black cases and about half that in the

charges that were indictable and entailed maximum imprisonment sentences of at least ten years. Cases of lesser severity (i.e., s.245(a) and (b), s.246(1)(a), s. 246.1(1)(b)) involved common assault, assaulting a peace officer and less severe types of sexual assault. The researchers were quite surprised that these cases were not more numerous. Presumably many simple assaults are either not being prosecuted or charges are escalated. Apart from the probable underreporting of these offences in the first instance it

Table 3
Assault Charge Type by Race

Charge Type	Black	Non-Black
Common Assault	19% (10)	16 (27)
'Serious' Assault	55% (28)	58 (99)
Sexual Assault	18% (9)	14 (23)
Assault Peace Officer	8% (4)	12 (21)
Totals	100.0% (51)	100.0 (170)

() - Represents number of people.

Table 3a
Sentencing Outcomes By Race
(N = 221)

Sentences	Blacks	Non-Blacks
Discharge	0% (0)	4 (7)
Suspended Sentence	20% (10)	22 (38)
Fine	25% (13)	30 (52)
Incarceration (more than one day)	55% (28)	43 (73)
Total	100.0% (51)	100.0 (170)

() - Represents number of people.

Table 3b
'Extreme' Sentences by Race
(N = 20)*

	Black	Non-Black
Discharge	0	7
Two Year plus incarceration	5	8

*Expected ratios assuming only charge severity controls would be two to five for discharge and three to ten for long incarceration.

event of Black offenders. Juries were utilized infrequently. Not-guilty pleas were maintained about 40 percent of the time and in another 20 percent the initial not-guilty plea was changed to guilty. In general, differences by race of offender were not pronounced in any of these characteristics, the largest being the rather predictable, modest difference between non-Blacks and the less well-off Blacks in hiring private legal counsel.

Differences by race were more pronounced when the criminal records of offenders were examined. Black offenders were more likely to have had prior convictions, more "priors", more prior convictions on related offences (*e.g.*, assault, threatening, armed robbery and break and enter) and recent priors (*i.e.*, 1983-88). Black offenders were also more likely to have faced other charges at the time of their conviction and indeed to have been under sentence when convicted or sentenced. Additionally Blacks were less likely than non-Blacks to have obtained favourable pre-sentence reports. While some of these differences are modest and the sample numbers are relatively small, there is an overall consistency which makes the subsequent finding that Blacks were more likely to be incarcerated (55 percent to 44 percent) rather predictable.

Table 3 provides data on the types of assault charges faced by the male offenders in this sample. It can be noted that the differences between Black and non-Black offenders in these regards were quite miniscule. For both groupings there was the same rank-ordering of charge types ("serious" assault, common assault, sexual assault and assault of peace officer in that order) and the percentages for each type were quite similar. Perhaps the only finding of note is the greater frequency of "serious" (indictable, maximum imprisonment of at least ten years) assault charges compared to common assault charges.

The sentences given to Blacks and non-Blacks for assault violations are detailed in Tables 3a and 3b. There it may be noted that no Blacks received a discharge while the majority were incarcerated. Among non-Blacks a few obtained discharges and the most frequent sentence - though not majority - was incarceration. The rank-order of sentences was similar for both groups: incarceration, fine, suspended sentence, discharge. As indicated in Table 3b, taking only the variable of charge severity into account and considering only the 20 statistically "extreme" cases of discharge or two years plus incarceration, the actual distribution differs from the expected distribution (expected that is if one simply extrapolated from the ratios associated with low and high charge severity) in the direction of Blacks receiving harsher sentences though the differences are modest (the small numbers preclude statistical significance).

Table 4a
Sentence Severity By Charge
Severity* (N = 221)

Sentence Severity	Charge Severity	
	Low	High
Low	47 (69%)	72 (47%)
High	21 (31%)	81 (53%)
$\chi^2 = 8.35$		
$P < .002$		
$C = .21$		

* See text for specific operationalizations.

Table 4b
Sentence Severity By Race
(N = 221)

Sentence Severity		
	Black	Non-Black
Low	23 (45%)	96 (57%)
High	28 (55%)	74 (44%)
$\chi^2 = 1.61$		
$P < .20$		
$C = .10$		

Table 5
Sentence Severity by Race Controlling for Charge Severity
(N = 221)

Sentence Severity	Low Severity		Sentence Severity	High Severity	
	Black	Non-Black		Black	Non-Black
Low	11 (65%)	36 (71%)		12 (35%)	60 (50%)
High	6 (35%)	15 (29%)		22 (65%)	59 (50%)
$\chi^2 = .02$			$\chi^2 = 1.86$		
$P > .5$			$P > .17$		
$C = .05$			$C = .13$		

Overall the basic descriptive patterns indicate that convicted male assault offenders have very much in common, especially low socio-economic status, and that Black offenders have even lower, socio-economic status than their non-Black counterparts. Blacks' more limited resource position manifests itself directly in their lesser likelihood of employing private legal counsel and perhaps indirectly in their failure to obtain a discharge sentence. At the same time the data clearly indicate that the Black offenders did differ from the non-Blacks on criteria clearly legally relevant (Culliton, 1970; Salhany, 1984) in sentencing such as criminal record, embeddedness and pre-sentence assessment. The group profiles of Blacks and non-Blacks on both assault charges and assault sentences are really quite similar. On the surface at least the sentencing patterns for assault do not provide much basis for the hypothesis of significant discrimination by race. On the other hand, there is little indication from these files that the court system does anything positive or proactive to effect a more substantive fairness given the societal inputs it receives. There was nowhere in the files, correspondence, trial records or pre-sentence reports any indication of sensitivity to the Black experience in Nova Scotia or for that matter to the problems of the resourceless in general.

Second-Level Analyses

In this section the analysis is advanced by contingency table comparisons where relevant "legal" variables can be controlled. Here for example the effect of prior conviction and charge severity will be examined in conjunction with race of offender and other factors. Table 4a indicates that there is indeed a significant relation between charge severity (as defined above) and sentence severity (*i.e.*, incarceration beyond one day is high severity while all other sentences are collapsed into the low severity category). The fact that the relationship is not as strong as expected - the contingency coefficient is only .21 - is apparently due to the tendency

for more severe charges to almost equally yield either low severity or high severity sentences. This latter tendency in effect means that other criteria such as perhaps prior record, counsel type, pre-sentence

Table 6a
Sentence Severity by Prior
Convictions

Sentence Severity	Two or Less Priors		Three or More Priors	
	Low		High	
	88 (72%)	30 (32%)	34 (28%)	65 (68%)
$\chi^2 = 33.8$ $P < .000$ $C = .38$				

Table 6b
Sentence Severity By Whether
Offender was Under Sentence at
the Time (N = 221)

Sentence Severity	Under Sentence		Yes		No	
	Low		High		Low	
	2 (7%)	118 (61%)	25 (93%)	76 (39%)		
$\chi^2 = 27.3$ $P < .000$ $C = .33$						

Table 6c
Sentence Severity by Whether
Offender Was Facing Other
Charges (N = 213)

Sentence Severity	Facing Other Charges		Yes		No	
	Low		High		Low	
	27 (43%)	89 (59%)	36 (57%)	61 (41%)		
$\chi^2 = 4.85$ $P < .03$ $C = .15$						

report and the like play a significant role in the sentencing process.

Table 4b affirms statistically what our initial analysis indicated, namely that while Blacks were somewhat more likely to be incarcerated for assault the relationship between sentence severity and race was not significant in this relatively small sample (*i.e.*, the probability of a difference such as found in the Table occurring by chance is high, almost one time in five). Table 5 examines the relationship between sentence severity and offender's race taking charge severity into account. In the case of the low severity charges the relationship between sentence severity and race was clearly insignificant. However, when dealing with more serious charges the relationship between sentence severity and race of offender approximated though it did not reach statistical significance (*i.e.*, $p = .17$). Consistent with the analysis of Table 4a above, Table 5 indicates that it is with respect to the more severe charges that race, or by implication factors associated with race such as type of counsel, "priors" and so forth, may affect the sentencing process at least modestly.

It was noted earlier that criminal record and embeddedness factors (*i.e.*, factors such as facing other charges or being under sentence or having broken parole/probation) differ by race grouping and that they can be expected to strongly affect sentencing. Tables 6a, 6b and 6c indicate the nature of that impact. Table 6a, based on 217 cases shows that sentencing severity was strongly related to prior convictions. Those offenders with "high priors" (three or more prior convictions) were likely to receive severe sentences and those with "low priors" (two or fewer previous convictions) were likely to avoid incarceration. The relationship between whether one was already under sentence and severity of sentence for the particular assault conviction was also significant and of comparable strength (see Table 6b). Offenders already under sentence were especially likely to receive an incarceration sentence, not surprisingly since they were often already in jail or prison. Least strong but still significant was the embeddedness factor of facing other charges; again offenders facing other charges were more likely to be incarcerated (see Table 6c). The significance and strength of these three relationships clearly suggest that since they were associated with race, race would have had to exercise a very strong impact on sentencing in order to remain significant when these other variables were controlled for. Of course in these data, as noted, the basic "zero-order" relationship between race and sentencing severity was modest and non-significant to begin with.

Following up on the above points the next two Tables (on the following page) examine the relationship between race and sentence severity controlling for prior conviction and embeddedness. Table 7

Table 7
Sentence Severity by Race Controlling for Prior Convictions (N = 215)

Sentence Severity	Two or Less Priors		Three or More Priors	
	Black	Non-Black	Black	Non-Black
	Low	15 (71%)	73 (72%)	7 (24%)
High	6 (29%)	26 (28%)	22 (76%)	43 (65%)
		$\chi^2 = .0$ $P > .9$ $C = .0$	$\chi^2 = 1.06$ $P > .3$ $C = .10$	

Table 8
Sentence Severity by Race Controlling for Charge Severity When Case Embedded* (N = 77)

Low Severity			Sentence Severity	High Severity	
	Black	Non-Black		Black	Non-Black
Low	5 (50%)	11 (52%)		3 (19%)	10 (33%)
High	5 (50%)	10 (48%)	13 (81%)	20 (67%)	
$\chi^2 = .01$ $P > .9$ $C = .02$				$\chi^2 = .49$ $P > .4$ $C = .15$	

*Embedded here refers to the offender's facing other charges and/or already being under sentence.

indicates that controlling for high or low "priors" renders more questionable the argument that race on the average affects sentence. Within each category of priors the race/sentence association was weak and not significant. The same results ensued when embeddedness, measured by facing other charges and/or already being under sentence, was controlled for. It should be clear that these statistical analyses provide results that are "on the average" and that are influenced by the number of cases being considered.

As a matter of curiosity, and admittedly stretching the value of cross-tabular analyses given the sample size here, an examination was made of the race-sentence relationship controlling for both charge severity and embeddedness (as defined above). The results shown in Table 8 can be compared with Table 5. Clearly

the utilization of an additional control variable, namely embeddedness, weakens further the weak race-sentence relationship depicted in Table 5. The same effect predictably occurs when Table 4b is rerun only for that portion of the sample where embeddedness was indicated; the weak race-sentence relationship is further weakened.

In summary, cross-tabular analyses provides little support for the hypothesis that race significantly affects sentencing either directly or as an amplifier/elaborator of other sentencing relationships. There were some race-related differences, especially in the case of the more serious assault charges, which were in the hypothesized direction but always these differences were modest and without statistical significance.

Table 9
Correlations and Beta Coefficients in Relation to Sentence Severity

Variable	Zero-Order Correlation	Beta Coefficient	Beta's Significance
Related Priors	.37	.22	.009
Severity of Victim's Injury	-.17	-.20	.004
Embeddedness	.28	.19	.005
High Priors	.38	.16	.05
Court Type	-.15	----	----
Charge Severity	.11	----	N.S.
Race	-.13	----	N.S.
Employed	.23	----	N.S.
Private Counsel	-.14	----	N.S.
Not-Guilty Plea	-.14	----	N.S.
Victim Unknown	.18	----	N.S.
Victim Sex	----	----	N.S.
Dependents	----	----	N.S.
Favourable PSR	----	----	N.S.

Multiple R = .53, R² = .28.

5. By "legal variables" is meant those variables clearly deemed to be legally relevant for sentencing. Prosecutors expect for example that probation or parole violation would be reflected in sentencing for offences incurred under that condition. And it is accepted that prior convictions are properly taken into account in sentencing and do not reflect double jeopardy (Sallhany, 1984). The argument appears to be that one is rarely sentenced at the maximum permissible by law so leniency is being exercised and therefore a judge can consider previous convictions. The wide range of sentence possibilities (for the gravity of the offence and character of the act) would also be readily acknowledged as a proper consideration. Beyond these factors what is to be taken as legal or extra-legal is subject to some ambiguity largely because the judge has to be sensitive to competing norms imposed by the *Criminal Code* (see Culliton, 1970). Age for example is often taken (now post-18) as an extra-legal variable since as Trudell (1986) notes the age of an offender is generally taken into account only in cases of extreme youth or older age. Family (and dependents) responsibility has been another ambiguous factor. Race, education, socio-economic status and work history are more unambiguously defined as extra-legal.

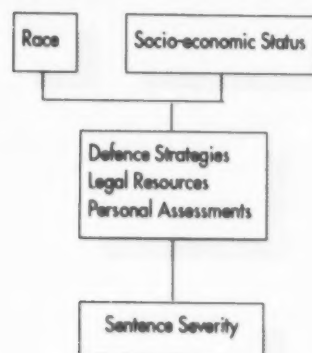
Correlation and Regression Analysis

The objective here is to examine the variable, sentence severity, utilizing all pertinent variables for which data have been obtained and thus identifying more precisely the comparative significance of the various offender characteristics, offence characteristics and legal considerations specified in Tables 1 and 2. In this way, for this sample, it will be possible to "place" the race factor more clearly. To facilitate the correlation/regression analyses

the values of all variables were recoded into two-value sets (*i.e.*, all variables were made "dummy variables"). The variables themselves are identified in Table 9, on the following page. Looking first at the basic correlations with sentence severity, Table 9 indicates that having related "priors" and having a high number of "priors" were the variables most strongly associated with sentence severity. Other moderate correlates of sentence severity included case embeddedness and employment status (*i.e.*, unemployment was associated with incarceration). Weaker correlates were severity of the victim's injury (*i.e.*, the less severe or permanent, the less likely incarceration), court type (*i.e.*, severe sentences were less likely in magistrate's court), having private counsel (*i.e.*, having private counsel was associated with less severe sentences), relationship with victim (*i.e.*, more severe sentences were associated with the victim being a stranger), plea (*i.e.*, guilty pleas were associated with less severe sentences), charge severity and race (*i.e.*, being Black was associated with receiving severe sentence). Other variables such as the sex of the victim, age of the offender, whether the offender had dependents and whether the offender had a favorable pre-sentence report were not correlated with sentence severity.

While the correlation analysis indicates that the stronger correlates of sentence severity in this sample were clearly the predictable "legal" variables, regression analyses were undertaken in order to see what would result when all variables were thrown into the mix.⁵ Simultaneous multiple regression analysis can be likened to a free fight among variables which yields both an overall measure of how much of the variance in sentencing these variables can account for when acting together (*i.e.*, the multiple *r* and the *r*²) and which of the

Figure 3
Race and Sentencing: A Structural
Discrimination Model



6. There are a variety of terms to describe such a pattern of discrimination. The approach adopted here has some affinity to an adverse effects model of discrimination which has developed out of human rights legislation and administration. The kernel of the latter is indirect discrimination related to a seemingly neutral criterion which disadvantages certain groups (Vizkelety, 1987). Institutional discrimination is a concept highlighting how integral discrimination is to the very nature of the system considered. Class and economic discrimination refer to resource issues as well as lifestyle factors. None of these fully and tightly cover the notions of both direct and indirect effects, race, subculture and economic differentials which must be considered.

variables are the most important (*i.e.*, the beta coefficient and its significance probability). The results are shown in Table 9. Only four variables turned out to be important and significant controllers of sentence severity and all were of the more strictly legal type. Clearly the most important was the record of past convictions. Both having related prior convictions and, after controlling statistically for that, having a high number of priors were important determinants of sentence severity. How serious or permanent the victim's injuries were also survived the statistical "free fight" as did the variable of embeddedness. Together these four variables accounted for roughly 30 percent of the variation in sentence severity as defined. None of the other variables proved to be significant and neither singly nor in concert did they advance the explained variance of roughly 30 percent.

The correlation/regression analyses point to the importance of more strictly intrinsic or legal variables in affecting sentencing. The most significant "extrinsic" correlate was employment status but it fell out in the regression analyses. Race was a weak correlate of sentence severity and not surprisingly it too was not significant in the regressions. Again the reader should be reminded that sample size, the distribution of variables' values and the operationalizations of variables all affect the statistical results. The absence of pre-sentence reports for half the offenders clearly reduced the likelihood that that variable would be significant. Similarly the socio-economic homogeneity of this sample (quite apart from race and employment status) limited any potential significance of education or job status. The fact that this research dealt only with the sentencing of males convicted for assault also precluded for practical reasons an examination of whether the factors such as priors, severity of injury, embeddedness and charge (*i.e.*, what have been referred to as legal or intrinsic variables) operate in precisely similar ways in effecting sentencing outcomes for Blacks and non-Blacks. In subsequent research where the sample size will be greater and more charge types considered it will be possible to compare and assess statistically regression models estimated separately for each group (see for an example of the technique, Apostle, Clairmont and Osberg, 1985).

Structural Discrimination

It is clear that from the data statistically analyzed here it would be difficult to develop an empirically convincing model of indirect and structural discrimination.⁶ The rationale behind such a model would be that while race is not on the surface or at the zero-order level or directly a particularly strong determinant of sentencing severity it at least has some such impact and, most importantly, it affects

Table 10a
Sentence Severity By
Employment Status (N = 208)

Sentence Severity		
	Em- ployed	Unem- ployed
Low	66 (67%)	49 (45%)
High	33 (33%)	60 (55%)
$X^2 = 9.04$ $P < .002$ $C = .21$		

Table 10b
Sentence Severity By
Socio-economic Status*

Sentence Severity		
	Low Status	Modest Status
Low	79 (56%)	41 (51%)
High	61 (44%)	40 (49%)
$X^2 = .48$ $P > .4$ $C = .05$		

*See text for operationalization.

moderately at least other variables that are strongly related to sentencing patterns. These other variables are posited to be factors rather extrinsic to legal considerations, factors such as employment, education and socio-economic status in general which directly affect in turn legal resources (*e.g.*, private counsel), favourable personal assessments (*e.g.*, pre-sentence reports) and possible defence strategies (*e.g.*, pre-sentence atonement such as covering the victim's medical bills). And these latter considerations in turn affect sentencing. Without formalizing such a model (though see Figure 3 for a depiction of these processes) and empirically testing it, it is still possible to explore these data with such an approach or model in mind.

It has already been noted that in this sample race was modestly related to sentence severity but that the relationship was not statistically significant and became even less so when other variables were controlled for. Race was also correlated with the four variables: priors, related priors, embeddedness and victim injury - which controlled sentencing. While these correlations were modest at best, ranging from .08 to .17, all were in a consistent direction predicting greater sentence severity for Blacks. What can be said from a structural discrimination perspective? Perhaps the first thing to note is that race itself was modestly correlated (.13) with having private counsel (Blacks were less likely to have such counsel), having a favorable pre-sentence report (Blacks were less likely to have one, $r = .13$) and pleading not guilty (Blacks were more likely to plead not guilty). Interestingly too, although there were only 13 cases of pre-sentence atonement action only one of these was by a Black offender; virtually all those engaging in pre-sentence atonement were either employed and/or had trade credentials or high education. All of these relationships were weak statistically but all were in the direction predicted by the model. It has already been noted however that these latter variables did not themselves figure significantly in the regression analysis. Overall then the linkages at each "step" as implied by the structural (or class-culture) models were only weakly and non-significantly (statistically) reflected in these data.

The strongest correlate of race in these data was employment status. Again the correlation was modest - .17 - but again it was in the direction predicted by the model, namely that Blacks were more likely to be unemployed. In order for the model to hold - following now the linkages from status to sentencing - employment status and other status-type measures would have to be at least moderately and significantly (in a statistical sense) related to sentence severity and/or to the factors such as counsel, plea and personal assessment just discussed. Of course these latter in turn would have to be at least moderately related to sentencing outcomes. Table 10a indicates that

7. Persons with at least a grade 12 education or with trade credentials or having at least the job status of semi-skilled workers were grouped together in the "modest status" category and compared to the remaining offenders in terms of the sentences they received. Clearly this represents a quite truncated operationalization of socio-economic status. Unfortunately the data did not permit a more adequate measurement.

the first requirement was partly met. Employment status was significantly and moderately (.21) related to sentencing outcomes. However "socio-economic status", (measured by a composite of high education, trade credentials and at least semi-skilled work)⁷ was unrelated to sentence severity (Table 10b). The insignificance of socio-economic status is undoubtedly related to the lack of variation (and the numbers) in this sample, a situation which limits analysis of status largely to the comparison of semi-skilled and unskilled workers. Other operationalizations of status such as adopting a more restrictive classification by grouping semi-skilled and unskilled together, only reduced the numbers in the "modest status" category to about 50 cases and still did not differentiate on sentencing.

The linkages between status measures and legal resources, et cetera could also be argued to have been met in a minimalist sense. Employment status was related modestly in the predicted direction to plea, pre-sentence report (.16) and having private counsel (.19). Pre-sentence atonement actions however were not associated with having employment. Also as noted above the linkage in turn between legal resources, personal assessment and sentencing was weak in these data.

Overall then the analyses do not support a robust adverse effects or structural discrimination model as regards sentencing and Blacks. The direction of relationships and linkages were as predicted by such a model but they were weak and not statistically significant and clearly not as determinative of sentence severity as criminal record, injury caused and case embeddedness. Limited values, truncated distributions and small sample numbers make it difficult for the model in a statistical sense. The well-off and the socially or politically influential were not represented in the sample which constituted virtually the entire population of convicted assaulters in recent years in metropolitan Halifax-Dartmouth. While these analyses allow the conclusion that, on the average, Blacks are not particularly discriminated against in sentencing for assault, what about special instances such as when Blacks assault non-Blacks rather than Blacks and what about special leniency such as discharges? It is to these matters that analysis now turns.

Special Issues

A common specification of the discrimination in sentencing argument is that Black offenders are punished more severely for assaulting non-Blacks than for assaulting Blacks. Typically this kind of discrimination is seen as representing a devaluation of the non-White victim (Kleck, 1981; Zatz, 1987). Bearing in mind again the small numbers available in this data set, this issue was examined.

Table 11
Black Offenders: Selected Assault Characteristics by Race of Victim

Characteristics	Black Victim N = 13	Non-Black Victim N = 38
Victim Known to Offender	100%	32
Victim Female	76%	50
Injury Mild	76%	60
Incarceration Sentence	46%	60
Suspended Sentence/Probation	40%	13
Offender Had "High Priors"	23%	68
Offender Had Related Priors	30%	63

Table 11 indicates that the hypothesis received support. While 40 percent of the Blacks convicted of assaulting a Black received a suspended sentence or probation, only 13 percent of those who assaulted a non-Black did so. Incarceration was more common where the victim was non-Black (60 percent to 46 percent). It is interesting that

these results obtained despite the fact that the Black victims were more likely to have been females. At the same time however the data indicate that Black victims were more likely to be relatives and acquaintances of the offender and to have suffered mild injuries. Moreover Blacks assaulting non-Blacks were much more likely to have had both more prior convictions and related prior convictions than Blacks assaulting Blacks. Overall then these results are quite in keeping with the correlation-regression analyses which emphasized the importance of criminal record and injury caused rather than race of the offender.

In the introduction to this paper it was noted that related local research (Renner and Warner, 1981; Clairmont, Barnwell and O'Malley, 1988) has found that Blacks rarely received discharges, sentences which in effect allow offenders to avoid the stigma and other implications of having a record of convictions. As Salhany (1984, p.421) observes "if an accused is discharged whether absolutely or upon condition, he is deemed not to have been convicted of the offence". Renner and Warner contended in their paper (*op. cit.*, p.76) that "discharges are reserved for those both *socially stable and White*" (their italics). Again in this data set the same result obtained. Seven persons received discharges but not one of these was Black. The fact that three successive sentencing studies in this metropolitan area all found that discharge sentences were predominantly given to non-Blacks (and that all absolute discharges were given to non-Blacks) is indeed remarkable. Subsequent perusal of the criminal records of Blacks convicted of assault or break and enter within the past two years did discover a number of conditional discharges, an indication perhaps that Blacks may have gotten into trouble earlier and so from a sentencing point-of-view used up their "credit" by the time they were convicted for the crimes considered in the three studies. (It would be useful to explore in these regards the impact of the young offenders legislation.) Still it would be important to specifically and directly examine discharges in recent years to determine the impact of class and race factors since the

argument has often been made that the institution of that sentencing option in 1972 was largely to benefit the well off in society (especially their children).

In a previous paper dealing with discrimination in sentencing and focussing on theft under s. 294 of the *Criminal Code* (see Appendix 4) a boolean matrix comparison was utilized to determine if the legal and extra-legal aspects or characteristics of those receiving absolute discharges were shared by Blacks and non-Blacks who did not receive that lenient sentence (Clairmont, Barnwell, O'Malley, 1988). The findings were that a legal type variable such as type of plea or poor pre-sentence report did differentiate the eligible (*i.e.*, having no prior convictions) Black offenders while in the case of eligible non-Blacks, the impact of lower socio-economic status was more readily detectable. The relevant numbers here were much smaller but a similar analysis was undertaken. Of the seven non-Black offenders who received discharges none had prior convictions and in all of the six adult cases the accused pleaded guilty. In two of the seven cases the injury caused was serious and it was for one of these that the only incident in this sub-sample of someone both having done pre-sentence atonement and having a pre-sentence assessment was reported. Interestingly in four of these seven cases the offender was represented by private counsel, a ratio significantly higher than in the sample at large. Age-wise the seven discharged ran the gamut from 17 to 61 but three were in their teens.

Blacks without prior convictions were also examined on the characteristics noted above. There were nine cases. All Blacks but two were in the prime age group for harsher sentences (Renner and Warner, 1981, p.73), namely their twenties; the two exceptions included a teenager and a 40 year-old. Six of the nine Blacks had pleaded not-guilty, also a factor which would work against receiving a discharge (see below). Surprisingly five of the nine had pre-sentence reports and three had private counsel. Three of these nine offenders were incarcerated. On the surface there were several cases where a match with one of the seven non-Black dischargees was faulted only on an extra-legal variable such as employment. Usually however there was a legal variable such as a not-guilty plea or multiple charges or severe injury which differentiated the Black offender's case, though what that specific factor was varied from comparison to comparison. Non-Blacks without prior convictions also infrequently obtained discharges; of the 50 who did not, 11 were incarcerated. Match-ups between these 50 cases and the non-Black dischargees essentially revealed the same patterns as discussed above.

Case by case comparisons can be frustrating since the perfect match is elusive even on legal variables such as severity of injury,

8. It is generally held that a not-guilty plea should not work against the accused. However, Salthay (op. cit., p.388) observes that "a plea of guilty should be regarded as a mitigating factor with regard to sentence as it is in the public interest and is some indication of remorse on the part of the accused".

9. There are no Black prosecutors operating out of the local courts and until last year there were no Black judges. Thus social ties and shared meanings which might facilitate leniency are not present in the case of the Black offender. While undoubtedly most court officials are well-meaning and fair, awareness of and sensitivity to the Black experience cannot be assumed. Certainly the two studies have shown that appearance and demeanor of the offender is significant in sentencing and generally works against Blacks (Renner and Warner, 1981; Stewart, 1985). Studies have been carried out probing the issue of judicial discretion via what is known as "the simulated cases to judges" approach where similar cases are given to a sample of judges who render a sentence as well as the principles they employed in the sentencing (e.g., Patys and Divoriski, 1986). The results are interesting but there is little indication of how useful this kind of exercise is in the explanation of actual sentencing.

plea and multiple charges, never mind other relevant variables such as age, type of counsel, et cetera. Also from these files it is impossible to determine whether in fact a discharge was requested. Certainly some special cases crop up. In one instance a non-Black first offender inflicted severe injury but received a discharge whereas in several seemingly similar cases Blacks and some non-Blacks inflicting ostensibly less serious injury did not; the key seemed to be that in the former case there was both a private lawyer and significant pre-sentence atonement. Several cases involving wife-beating also yielded sharply different sentences, ranging from discharge to incarceration and here from file information only the accused's plea was different.⁸ Overall the indication from these analyses is that resource mobilization on the part of the accused may be important. In that regard the socio-economic legacy of racism if not continuing, subtle racism, disadvantages Blacks. It is unclear what is going on at the level of the prosecutor and judge but the indication is that their leniency in these discharges is perhaps idiosyncratic but more responsive to the demeanor and perceived futures of the accused than to their present situations or historical experiences. Informed local Black lawyers have argued that the demeanor of Black offenders is often misunderstood by court officials who are virtually all White and share different social ties and meanings.⁹ Clearly other considerations - data unavailable to this study - might be operative such as the prosecutor's or judge's sense of the spontaneity rather than deliberateness of the assault, etc. Clearly too more systematic study of discharges is required before one can be confident that discharges are given out either fairly or truly idiosyncratically.

Discussion

This research has focussed on the issue of sentencing in the case of males convicted of assault. With few exceptions all such sentences meted out in the metropolitan Halifax/Dartmouth area over the past few years were considered. The findings overall are consistent with earlier research conducted in the same locale but focussing on convictions for theft. Essentially there is little support for the proposition that on the average the race of an offender directly affects the sentencing he will receive. Not only does race not have this effect but also it does not amplify other relationships; for example race does not seem to interact with factors such as "high priors" to enhance the latter's impact on sentencing nor does it create a differential impact within subcategories of such factors. Finally a structural discrimination model, which posits in collaboration with socio-economic factors, direct and indirect race effects via defence

strategies, resources and personal assessments is weak and without statistical significance. The variables that do clearly control sentencing variance are "legal" factors such as criminal record, severity of injury and embeddedness of the particular case (*e.g.*, offender a probation violator). In these regards this research is consistent with recent work on discrimination in sentencing in both Canada and the United States which has generally found (research methods have also improved!) that such discrimination has become much more subtle, sporadic and driven either into earlier stages of the charge/conviction/sentencing process or into the "backroom" of the court.

Notwithstanding the above it is important to note that virtually all the relationships examined were in the direction predicted by a discrimination supposition. More Blacks were, percentage-wise, incarcerated; none received a discharge; Blacks did receive the longer sentences; Blacks assaulting non-Blacks were sentenced more harshly than Blacks assaulting Blacks (the idea of devaluation is integral to the idea of discrimination). As noted too the relations and patterns implied by a structural discrimination model were weak but correctly cast by theory. Being Black was related to defence strategies, resources and personal assessments which in turn affected weakly sentence severity. And the linkages through socio-economic status were in the predicted direction at least. Of course none of these relations was statistically significant and the legal variables could usually be counted upon to better account for the relationships hinted at by the race-based supposition.

Statistical analyses provide results which are on the average. Statistical evaluations such as significance tests are very much influenced by the number of cases available as well as by the strength of relationships. In this instance race is not "robust" and the number of cases is limited (as well the distribution of cases is skewed with only 51 Blacks but 170 non-Blacks). Larger samples might well establish statistical significance for a race factor in sentencing but the results from both this study of assault and our previous study of theft suggest that after the legal variables the most important factors in sentencing variation would be economic resources and class-based cultural factors; the latter might be manifested in plea, demeanor and what might be called court understandings/expectations which work to the benefit of the better-off and especially the privileged. Since the legal variables explained only 30 percent of the variance in sentencing severity as operationalized, clearly there is still 70 percent to be explained by some factors.

In examining sentencing severity here it is obvious that socio-economic factors would be underestimated since the sample is overwhelmingly made up of offenders of low and modest social

status. This homogeneity has the benefit perhaps of isolating any strictly race impact on sentencing - though the Black sub-sample is still significantly worse off in terms of education employment and job status - but it also inhibits larger considerations of social class. There were too few cases of well-off offenders to capture that effect. The fact that employment status is moderately correlated with sentence severity and that both having private counsel and rendering pre-sentence atonement also are, point to the salience of social class. Similarly the fact that a "successful" social class-based strategy of the assaulter pleading guilty, hiring a good lawyer and paying the victim compensation prior to being sentenced could be discerned in a few cases, points again to the potential significance of social class factors. Since the sample for this study was virtually the entire population of recently convicted offenders it may mean that social class factors will always be underestimated since the number of middle and higher status convicted offenders will always be few. Clearly research has to focus also upon earlier stages of the process including the laying of charges, plea bargaining and stays of prosecution if the full impact of socio-economic factors is to be seen.

Even within the clearly truncated social class sample available here the Black offenders are less well-off. Perhaps that fact plus the historical legacy referred to by Head and Clairmont (*op. cit.*, 1989) account for the disproportionate number of Blacks represented in this assault sample as well as for the weak discrimination effects found. A less truncated sample and/or a broader study of the justice process as defined above would probably show up the race impact better since Nova Scotian Blacks are underrepresented among the better-off in the province. Presumably the cumulative discrimination effects would be more clearly seen.

In sum, this research has shown that the race impact on sentencing either directly or indirectly is quite weak. A race discrimination factor appears to be present in sentencing but the fact that the effect is weak, that the number of cases is limited and that sentencing for assault is largely confined to persons of low or modest status all combine to reduce its impact. More attention has to be given to the laying of the charge itself, stays of prosecution, discharges overall and the implicit understandings and expectations of Blacks, lawyers and court officials. Racism in a system of formal rationality cannot but be subtle and cumulative. Statistical analysis of the sort done here may be too blunt a tool to capture this well. Special instances of harshness or leniency occasionally dramatize the interconnections of discrimination, social resources and informal acceptances while on the average the formal rationality of the system is most manifest. Without historical studies to fall back on it is unclear whether the subtle and cumulative effects are declining. Older Blacks and most

non-Blacks appear to think so but even they acknowledge the present pervasive unfairness. Sensitivity to the legacy of racism and appreciation of its modern guises was not evident in the court dockets nor in the special acts of leniency encountered (*e.g.*, discharges). Such sensitivity in conjunction with a concern for more equitable legal resources and socio-economic opportunities would seem to be required to truly eradicate racism and discrimination. As long as the persons making and interpreting rules and administrative policies are drawn from narrow class and race/ethnic backgrounds the sensitivity and change might be hard to come by.

6 The Charter Study*

* See Sniderman, Fletcher, Russell and Tetlock, "The Charter of Rights Project", Centre of Criminology, University of Toronto, 1987

Herein data are presented from a national study carried out at the University of Toronto dealing with attitudes pertinent to the Charter of Rights and Freedoms. The Table indicates that groupings of lawyers, police and citizens share many views but that the lawyers are consistently more supportive of extending equality and of racial and subcultural differences. The police sample's responses to the select attitudinal questions is similar to the citizens sample, especially when one takes into account the apparent inconsistency of responses to questions three and ten. Police are more likely than lawyers and citizens to hold that society has gone too far in pushing equal rights (*i.e.* 34 percent and 43 percent). They are least likely to hold that laws guaranteeing equal rights for minorities should be stronger.

Table 1
Attitudes of Lawyers, Police Officers and Citizens Concerning Equality Rights and Related Issues

Items	Lawyers	Citizens	Police
Better if different races live and work together	94.7%	92.0	91.3
Immigrants should learn Canadian	64.9%	75.3	81.5
Laws guaranteeing equal rights for minorities should be stronger	17.7%	28.5	10.9
Immigrants bring discrimination	43.5%	70.9	73.1
Some breeds of people are better than others	9.4%	23.5	22.8
Minorities give neighbourhoods own atmosphere	22.6%	35.0	40.2
All races are certainly not equal	14.5%	30.1	30.4
Minorities would be liked better if they get rid of their faults	20.3%	39.0	33.7
Society's gone too far in pushing equal rights	13.1%	30.4	34.1
Canada would be better off if worry less about equality	22.7%	50.9	37.2

Source: Fletcher, Centre of Criminology, University of Toronto.

7 Monitoring Agencies

In preparing this report it was considered useful to determine the extent to which Blacks addressed complaints of prejudice and discrimination to provincial governmental agencies such as the Human Rights Commission, the Ombudsman or the Police Commission.

Table 1
Formal Complaints Handled by the Nova Scotia Human Rights Commission
1969 - 1987

Complaint Category	1969-71	1972-74	1975-77	1978-81	1982-84	1985-87
Race:						
Black	178	207	158	166	110	122
Other	31	43	24	43	23	43
Ethnic	10	8	11	8	Data Unavailable	
Sex*	----	77	104	120		
Religion	10	1	10	5		
Other**	11	18	27	66		
Total	240	354	334	408	368	395

Source: Annual Reports, Nova Scotia Human Rights Commission.

* Sex became a grounds under the provincial *Human Rights Act* in 1972.

** Other refers primarily to age, marital status and physical handicap.

Nova Scotia Human Rights Commission

This agency came into existence in 1969 largely as a result of pressure by Blacks for governmental action to deal with prejudice and discrimination. It has always had - and continues to have - a close identification with the Black community. Despite this fact, as indicated in Table 1, there has been a downward trend not only in the absolute number of Black

complaints (from a high of 207 in 1972-74 to 122 in 1985-87) but especially in the percentage which they constitute of the total formal complaints handled by the Commission (from 74 percent in 1969-71 to less than 31 percent in 1985-87).

The complaints brought by Blacks to the Commission have focussed on discrimination in employment, housing and services. Rarely has there been a formal complaint - only one in ten years according to Commission staff - launched concerning the police, courts or correctional system. Presumably there is a question as to what jurisdiction the Human Rights Commission has in this area. It is also unclear, in the view of Commission staff, to what extent if any the Commission could launch inquiries into issues of prejudice and discrimination in the criminal justice system. In any event the Commission has suffered considerable loss in its investigative staff in recent years and now it has not the resources to do much more than react to issues unquestionably within its mandate. Little proactive educational or awareness work is being done and still less research.

Nova Scotia Police Commission

Examination of the annual reports of the Nova Scotia Police Commission indicates that since its inception it has not dealt with a single citizen complaint formally. The Commission represents the

fourth and final stage of the appeal process for complaints brought against the police by citizens. It does appear that a few investigations have been undertaken by the Commission that had racial overtones but there is no elaboration in the Commission's annual reports. In fact there was virtually no reference to racial considerations in any of the annual reports. It seems clear that the Commission has not been proactive at all in the area of discrimination and the justice system.

The Ombudsman

The Ombudsman's Office reported that at least in recent years it has handled no complaints from Blacks with respect to any aspect of the criminal justice system. Moreover its Director questioned whether the Office would have any jurisdiction in this field.

Recently a new legal definition of discrimination has emerged which is based upon the concept of "adverse effect". This development has largely been in response to the ineffectiveness of anti-discrimination legislation where proof of "intent" had traditionally been held to be a necessary prerequisite to any finding of discrimination.

"...As long as intent was deemed an essential element of proof, legislation generally proved to be inadequate in dealing with forms of discrimination which operated irrespective of intent." (Vizkelety, p. 13-14)

There was considerable debate and uncertainty in Canada regarding the appropriate legal definition of discrimination. The question was whether it was limited to an intent-based interpretation or would include an adverse effects concept.

"...The Supreme Court of Canada settled the debate by deciding, in O'Malley and Bhinder, to uphold the effects theory of discrimination.[T]he Supreme Court decisions were undoubtedly essential to the effectiveness of human rights legislation in this country. In addition to problems of proof, there has been mounting evidence to show that discrimination does indeed exist irrespective of intent and the steady stream of reports emanating from royal commissions, public inquiries and human rights commissions have called for effective legislation to counter it." (Vizkelety, p.37)

1. *Bhinder et al v. Canadian National Railway et al.*, [1985] 2 S.C.R. 561

2. *Ontario Human Rights Commission and O'Malley v. Simpsons - Sears*, [1985], 2 S.C.R. 536

In *Bhinder*¹ and *O'Malley*² the Supreme Court of Canada gave explicit recognition to two forms of discrimination namely, direct discrimination and adverse effect discrimination. The distinction between the two was drawn as follows by the Supreme Court in *O'Malley* (per MacIntyre, J.):

"A distinction must be made between what I would describe as direct discrimination and the concept already referred to as adverse effect discrimination in connection with employment. Direct discrimination occurs in this connection where an employer adopts a practice or rule which on its face discriminates on a prohibitive ground. For example, "no Catholics or no women or no Blacks employed here". There is, of course, no disagreement in the case at Bar that direct discrimination of that nature would contravene the Act. On the other hand there is the concept of adverse effect discrimination. It arises where an employer for genuine business reasons adopts a rule or standard which is on its face neutral, and which will apply equally to all employees, but which has a

discriminatory effect upon a prohibited ground on one employee or group of employees in that it imposes, because of some special characteristic of the employee or group, obligations, penalties, or restrictive conditions not imposed on other members of the workforce." (at p. 551)

As the Supreme Court also held in *O'Malley* ,

"It is the result or the effect of the action complained of which is significant. If it does, in fact, cause discrimination, if its effect is to impose on one person or group of persons' obligations, penalties, or restrictive conditions not imposed on other members of the community, it is discriminatory." (at p. 547)

It would be extremely difficult in most circumstances, to prove a motive, and motive would be easy to cloak in the formation of rules which, though imposing equal standards, could create, as in Griggs v. Duke Power Co.....discrimination by the equal treatment of those who are unequal ...". (at p. 549)

The intention to discriminate is now no longer a necessary element to a finding of discrimination under Canadian law. Discrimination based upon adverse effects is therefore prohibited even in the absence of any explicit statutory prohibition.